

K2J3SCH1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

S2 17 Cr. 548 (PAC)

5 JOSHUA ADAM SCHULTE,

6 Defendant.

Trial

7 -----x

New York, N.Y.
February 19, 2020
9:15 a.m.

9 Before:

10 HON. PAUL A. CROTTY,

District Judge
-and a jury-

11 APPEARANCES

12 GEOFFREY S. BERMAN

13 United States Attorney for the
Southern District of New York

14 BY: MATTHEW J. LAROCHE

SIDHARDHA KAMARAJU

15 DAVID W. DENTON JR.

Assistant United States Attorneys

16 SABRINA P. SHROFF

17 Attorney for Defendant
-and-

18 DAVID E. PATTON

Federal Defenders of New York, Inc.

19 BY: EDWARD S. ZAS

Assistant Federal Defender

20 Also Present: Colleen Geier

21 Morgan Hurst, Paralegal Specialists

22 Achal Fernando-Peirís, Paralegal

John Lee, Litigation Support

23 Daniel Hartenstine

Matthew Mullery, CISOs, Department of Justice

K2J3SCH1

(In the robing room; counsel present)

THE COURT: Okay. I got a note from a juror, and it deals with an incident that occurred on Thursday late in the day. He then left the courthouse. We asked him to put the report that he made to David on Thursday in writing, which he did on Tuesday morning.

This is the note. I'm going to mark it as Court Exhibit 1. I made copies. So I don't think we can resolve this now. But I wanted to call it to your attention right away.

(Pause)

MS. SHROFF: It seems okay to me.

THE COURT: There is a whole series of cases in the Second Circuit that suggest it is okay.

MS. SHROFF: It's her belief. She's not saying she can't be impartial. She's not deliberated. She's voicing an opinion. And she also notes that that was a different -- I mean, she's saying she is a different kind of citizen. That's what we want. A jury of peers.

MR. LAROCHE: It strikes me, your Honor, that at a minimum, there should be some -- it would make sense to me to question the juror about her impartiality. It seems like here, the fact that she might think the criminal justice system is racist.

THE COURT: That's her husband's thought.

K2J3SCH1

1 MS. SHROFF: You're right, your Honor.

2 THE COURT: So, I don't want an answer now. There are
3 a couple of cases I want to call to your attention U.S. v.
4 Abrams, 137 F.3d 704 (2d Cir. 1998); U.S. v. Viale, 312 F.2d
5 595, 602; U.S. v. Thai, 29 F.3d 783 (2d Cir. 1994); U.S. v.
6 Farhane, 634 F.3d 127 (2d Cir. 2011).

7 One of the cautions that they make in these cases --
8 that's not all the cases, but that's enough to get you going --
9 is that inquiry along the lines that Mr. Laroche suggests may
10 be counterproductive. But I don't want to decide this without
11 hearing from you.

12 MR. LAROCHE: Understood.

13 MR. ZAS: My concern would be what those cases suggest
14 is just singling out a particular juror. I don't think it
15 would be a problem to remind them that no one should be
16 discussing the case until the end.

17 MS. SHROFF: You just did that yesterday.

18 THE COURT: I did that yesterday and that's part of my
19 scenario.

20 MR. ZAS: We're getting this juror's version of what
21 the other juror said, which also may be not entirely accurate.

22 THE COURT: We've got time on this. So if anybody
23 wants to submit anything or take a further position, that's
24 fine with me. I'll set a deadline of tomorrow?

25 MR. LAROCHE: Sure.

K2J3SCH1

1 THE COURT: Friday?

2 MS. SHROFF: Friday is better, your Honor.

3 THE COURT: How much longer do you have on Karen?

4 MR. DENTON: About a half hour, 40 minutes, your
5 Honor.

6 THE COURT: Are you going to be longer?

7 MS. SHROFF: I might be. She answers so slowly.

8 THE COURT: She's thinking.

9 MS. SHROFF: Do you think we could give her a last
10 name? It is very hard for me to call somebody "ma'am."

11 THE COURT: Why don't you call her Karen? She's your
12 good friend.

13 MR. ZAS: I think this is the original.

14 THE COURT: We are going to mark this Court Exhibit 1.
15 I'll give it to David Gonzalez and he'll keep custody. Those
16 copies are for you.

17 (Continued on next page)

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K2J3SCH1

Karen - Direct

1 (In open court; jury present)

2 THE COURT: I want to remind the witness, you're still
3 under oath.

4 THE WITNESS: Yes.

5 THE COURT: All right, Mr. Denton.

6 MR. DENTON: Thank you, your Honor.

7 KAREN,

8 called as a witness by the Government,

9 having been previously sworn, testified as follows:

10 DIRECT EXAMINATION (Continued)

11 BY MR. DENTON:

12 Q. Good morning, ma'am.

13 A. Good morning.

14 Q. When we broke yesterday, you were testifying generally
15 about some of the limitations that resulted from the fact that
16 the defendant had involved the threat management unit; do you
17 remember that?

18 A. Correct.

19 Q. So despite those limitations in the spring of 2016, did you
20 take any steps to address concerns raised by the defendant's
21 complaint about a death threat?

22 A. I worked with my deputy, Mike, and then the acting division
23 chief below that worked for him, Anthony, to determine what the
24 best approach would be. We consulted with HR, human resources,
25 we consulted with legal, we consulted with security, to

K2J3SCH1

Karen - Direct

1 understand as best we could what it was that we should do or
2 what our options were. We also consulted with my boss in the
3 front office, Bonnie, to figure out the best way for us to
4 handle the situation to try to bring calm back to the
5 organization, and help everyone move forward.

6 MR. DENTON: Ms. Hurst, can we put up Government
7 Exhibit 1042, please. If we can go I guess to the carryover
8 e-mail that starts on this page and then goes to the next.
9 Thank you.

10 Q. Just to orient us, who sent this e-mail?

11 A. So, the officer that sent this e-mail was the division
12 chief that -- she was in the process of moving out to a new
13 assignment, so Debra was the division chief when the incident
14 first happened.

15 Q. When was this e-mail sent?

16 A. March 24, 2016.

17 Q. Generally speaking, what is this e-mail talking about?

18 A. So, this e-mail is talking about the fact that in consult
19 with, again, the resources I had just mentioned, HR, security,
20 etc., we understood that it was best to at least try to move
21 the officers within the spaces that the branch they were in
22 were, so OSB.

23 When this incident happened, both officers were
24 sitting extremely close to each other in cubicle desk settings,
25 where, really, they both couldn't walk out at the same time,

K2J3SCH1

Karen - Direct

1 they would be so close. We wanted to try to physically
2 separate them in the space as much as possible so they weren't
3 bumping into one another.

4 MR. DENTON: Ms. Hurst, can we go up to the next
5 e-mail in the chain above this on the first page.

6 Q. Did you send this e-mail?

7 A. Yes, I did.

8 Q. Who did you send it to?

9 A. I sent it to the chief of security for CCI, the center.

10 Q. Do you see where it says "CH/AED, upon verbal consultation
11 with CH/HR and myself, sent moving instructions to the officers
12 in the e-mail below."

13 A. Yes.

14 Q. Are those the consultations that you were just describing?

15 A. Yes, that would be so chief slash AED was Debra at the
16 moment that this was going on. So the discussions with her and
17 HR, we did exactly what this says, I had her send moving
18 instructions to the officers.

19 Q. Can you read the last line of the e-mail.

20 A. "This was precipitated by Mr. Schulte's refusal to move
21 until he received written direction."

22 Q. What did you mean by that?

23 A. What was relayed to me by Debra was that Josh refused to
24 move unless he was given something in writing. So, I had her
25 do that.

K2J3SCH1

Karen - Direct

1 Q. As a general matter, had you decided that nothing would be
2 put in writing in connection with this incident?

3 A. No, that's not true.

4 Q. Going back to the specific move, were you involved in
5 deciding what actual cubicles the defendant and Amol would be
6 moved to?

7 A. No. We talked in general terms about making sure they were
8 as far apart as we could get them within the space.

9 MR. DENTON: Ms. Hurst, can we bring up Government
10 Exhibit 1039, please. And blow up I guess it is the paragraph
11 that starts "despite the security incident."

12 Q. If you look at the sentence, ma'am, that starts at the end
13 of the third line and carries over on to the fourth, that
14 reads, "I was asked to move to an intern desk while Amol was
15 promoted to a better desk."

16 A. Yes, I see that.

17 Q. As far as you are aware, was the defendant asked to move to
18 an intern desk?

19 A. There's really no such thing as an intern desk. The spaces
20 are fairly standard. The location near a window might be
21 considered to be better, people like that. But there's no such
22 thing as an intern desk.

23 Q. Were questions of punishment or promotion any part of the
24 decision to move the defendant and Amol?

25 A. No. It was a practical decision based on available space

K2J3SCH1

Karen - Direct

1 in what room we had to work in.

2 MR. DENTON: We can take that down. Thank you.

3 Q. Did there come a time after that when you decided to move
4 the defendant and Amol to different branches within EDG?

5 A. So, there was a court ruling -- Josh had filed a
6 restraining order in the local county against Amol. And when
7 that court ruling came out that the restraining order would be
8 granted or executed, we had instructions that we received that
9 those two could not interact or be near one another. And we
10 needed to avoid them running into each other even in the
11 building. So, that meant that we needed to move folks around.

12 We went through and discussed the situation -- this
13 would be my deputy and the chief or acting chief of AED -- and
14 decided that the appropriate thing to do, based on how human
15 resources really, again, as I said yesterday, wants and our
16 policies and approaches are to never disadvantage any
17 particular officer as we make decisions. So, the most
18 appropriate thing to do would be to move both officers.

19 So then we had to consider which branches made the
20 most sense for mission, for the officer's skill set, and we
21 also looked at where those branches were located in the
22 different buildings. In the building.

23 MR. DENTON: Ms. Hurst, can we put up Government
24 Exhibit 1046, please. And I think on the second page. If we
25 can blow up the text in the first e-mail there.

K2J3SCH1

Karen - Direct

1 Q. Do you see where it says: "Josh will be moving to AED/RDB
2 and Amol will be moving to AED/MDB."

3 A. Yes.

4 Q. How did you decide which branches they should be moved to?

5 A. It was based on the officer's skill sets. They have some
6 different things that they were good at. And also, based on
7 the need of the different branches. This is a very busy
8 mission, those particular branches had things going on, they
9 could use the extra help. And these branches are located on
10 different floors in the building. So, by moving them to those
11 branches, it also helped with the fact that they were not
12 supposed to be running into one another.

13 Q. For the defendant in particular, how did you settle on RDB
14 as where he would be moved to?

15 A. So, as we discussed, the type of work and things going on,
16 the feeling and the recommendation from the branch level
17 management and the division level management was it best
18 matched his skill set. Plus, there was a senior engineer,
19 Duane, that he had worked with before. And so the thought was
20 that would be a good place for him to go, a good place for him
21 to transition to. He had somebody he had worked with before,
22 had a good understanding of his skill set that could guide him
23 in the new branch.

24 MR. DENTON: Ms. Hurst, can we go up to the response
25 e-mail in this chain, please. First page. Can we blow that

K2J3SCH1

Karen - Direct

1 up.

2 Q. Who sent this, ma'am?

3 A. Josh sent this.

4 Q. Did you receive it?

5 A. Yes.

6 Q. Generally, who else as a group did he address this to?

7 A. Let's see. It looks like he sent it to HR, human
8 resources; security; Bonnie, so the head of the center; myself;
9 my deputy, Mike; Debra again, the division chief at that time,
10 who had just left the job; and then the acting division chief,
11 Anthony. He also sent it to his branch chief, and it also
12 looks like he sent it to Michele who I think was in the
13 executive director position at the time.

14 Q. You've been talking a little bit about why you moved the
15 defendant to RDB. Was the defendant being punished for
16 reporting a security incident?

17 A. Absolutely not.

18 Q. Was he being punished for submitting a protective order?

19 A. Absolutely not.

20 MR. DENTON: If we can go up to the first e-mail in
21 Government Exhibit 1046, Ms. Hurst.

22 Q. Do you see here in the end of the first line, start of the
23 second, where the defendant says, "I'm proceeding with my move
24 assuming it is directly due to my security report"?

25 A. Yes, I see that.

K2J3SCH1

Karen - Direct

1 Q. Was the move due to his security report?

2 A. The move was due to the fact that when the restraining
3 order was executed by the county, we had to physically move the
4 location of where both officers worked.

5 Q. Why didn't you just move Amol, the officer he had obtained
6 an order against?

7 A. Again, when we look at how officers are treated, we try to
8 be as fair and even and not disadvantage or advantage a
9 particular officer. At this point in time, the investigation
10 of the incident in the office and the claim from our security
11 organization, the threat management unit, had not been
12 resolved. So, everything that we had related to both officers
13 was that we should move forward and treat them both the same.

14 Q. Did you respond to either of these two e-mails from the
15 defendant?

16 A. No.

17 Q. Why not?

18 A. We were, one, trying to work things at the lowest level
19 within the organization. So, the interactions were handled at
20 that point largely by Anthony, who was the acting division
21 chief and also the outgoing branch chief, he had been in RDB.
22 So we were handling those interactions. There was a lot of
23 things going on, and actually, responding to all of these
24 e-mails got -- it gets to be too much after a while.

25 He had been told multiple times, it was documented, it

K2J3SCH1

Karen - Direct

1 was time to move forward.

2 MR. DENTON: We can take that down. Thank you.

3 Q. When the defendant moved branches, was there any discussion
4 about whether he would keep projects that had been assigned to
5 him while he was in OSB?

6 A. When we made the decision or when we make the decision to
7 move any officer, the practice is that when they move to the
8 new assignment, they work on the things that are the work of
9 that new office. They don't bring their work with them.

10 Q. Is accesses to projects within EDG controlled?

11 A. Yes. In general, the code activities and things are
12 controlled based on the type of work that you are doing and
13 where you're working, what you're doing.

14 MR. DENTON: Ms. Hurst, can we put up Government
15 Exhibit 1062, please. And if we can blow up the section at the
16 bottom of the page, please.

17 Q. Ma'am, did you receive this e-mail?

18 A. Yes.

19 Q. Do you see the subject line "EDG/AED security concern Re
20 OSB libraries"?

21 A. Yes.

22 Q. Do you remember this incident?

23 A. Yes.

24 Q. First of all, just generally, what was your reaction to
25 receiving an e-mail from Anthony about an AED security concern?

K2J3SCH1

Karen - Direct

1 A. So, prior to the e-mail, just prior to the e-mail, Anthony
2 had come to the front office. He was in and out of the office,
3 especially talking to Mike quite a bit as we worked through
4 this. But also me, if I was available.

5 He had come in, and talked to us and alerting that he
6 had some significant concerns based on what he had been looking
7 at. And was upset, alarmed, at what he had found.

8 Q. What was your reaction to what you had been told?

9 A. I was also very concerned at what he was talking about. So
10 he talked about a little bit more about what was found and then
11 how to proceed with addressing the situation.

12 Q. Let's take a little closer look at this e-mail.

13 MR. DENTON: If we can go to the next page, please,
14 Ms. Hurst, and blow up the first paragraph under the line of
15 asterisks there.

16 Q. Do you see the first part of the paragraph where it says,
17 "At the end of March 2016, EDG/AED/OSB staff were directed by
18 EDG and CCI management to ensure that all OSB projects were
19 properly resourced."

20 A. Yes.

21 Q. What did you understand that to mean?

22 A. They were directed by us, the management chain, to ensure
23 that the branch had its proper resources aligned for its code,
24 it tools, its configuration, and the appropriate people working
25 and having access to those things.

K2J3SCH1

Karen - Direct

1 Q. Do you see a little further on where it talks about making
2 sure things were accessed by the appropriate people in OSB, and
3 any projects that were not going to remain in OSB be moved to
4 the appropriate EDG branch immediately?

5 A. Yes.

6 Q. What is that a reference to?

7 A. Going through and making sure, as they were essentially
8 tidying up and making sure things were organized, if there was
9 some code or in those libraries that more appropriately
10 belonged to another branch, they were also told to address that
11 and move it.

12 Q. Were these the decisions that you were involved in?

13 A. We talked about it with me at a high level. I am four
14 levels removed from most of this activity. So we talked about
15 it in general terms, and Anthony and Mike to a degree worked
16 through the details.

17 Q. Then just following that where it says, "This move was made
18 following a personnel situation that occurred in March 2016."

19 Do you see that?

20 A. Yes.

21 Q. What is that referring to?

22 A. This was referring to the fact that because of the
23 personnel situation where we had to separate the officers, and
24 assign them to new branches, this was essentially the rest of
25 making sure everything was implemented correctly.

K2J3SCH1

Karen - Direct

1 Q. When you say "the officers," are you talking about the
2 defendant and Amol?

3 A. Yes, I am.

4 MS. SHROFF: Objection to the leading.

5 MR. DENTON: Just trying to clarify.

6 THE COURT: Overruled.

7 MR. DENTON: If we can zoom back out, Ms. Hurst, and
8 go down to the next page. And blow up I guess it is marked as
9 number 3 there.

10 Q. Could you read this for us, please?

11 A. "After the discussion and e-mails sent on the topic
12 (reference the e-mails below) before the end of the day on 14
13 April 2016, Jeremy checked the accesses on the OSB code library
14 server and discovered that Joshua reinstituted his
15 administrative access to the server via other administrative
16 rights Joshua possessed on EDG's DevLAN system."

17 Q. First, before we get into the specifics here, do you know
18 who Jeremy is?

19 A. Yes, I do. He's one of the other officers in the branch.

20 Q. Had you dealt with him before all of this?

21 A. Yes.

22 Q. In what context?

23 A. So as a developer, like any developers working on projects,
24 he would have come and briefed me or I would have seen him in a
25 board meeting, that type of interchange, or a demonstration.

K2J3SCH1

Karen - Direct

1 Like any officer, if I pass by, I would talk to him. He also
2 was very forward leaning and engaged as part of working on some
3 of those things like I talked yesterday about the TAC, the
4 Tactical Advisory Council, the group of officers that wanted to
5 be helpful and come up with and identify things that need to be
6 worked on. So I interacted with him on a number of things.

7 Q. So, with respect to the specific things described here in
8 paragraph 3, was it concerning to you that Joshua reinstituted
9 his administrative access to the server via other
10 administrative rights?

11 A. Yes.

12 Q. Why?

13 A. One, it was pretty clear that, you know, everyone had been
14 talked to about what was going on, how to basically get
15 everything appropriately resourced as we discussed a few
16 minutes ago. And this practice of going in, if your rights had
17 been changed, and then going in and figuring out another way to
18 come at things is not the way the organization works. It is a
19 violation of trust, and not the normal practice for what was
20 expected of the officers.

21 MR. DENTON: If we can zoom out again, Ms. Hurst. And
22 then go down to the last paragraph, the last full paragraph.
23 Sorry. The last paragraph on the page.

24 Q. Could you read first sentence there, please.

25 A. "As a result, Joshua's direct insistence that he maintain

K2J3SCH1

Karen - Direct

1 access, using language indicating that he would find a way to
2 ensure this access is maintained regardless of management's
3 decision to remove his access, and willingness to act to
4 reinstitute his administrative access to a system that he
5 should not have these rights must be taken seriously."

6 Q. Could you just continue, please.

7 A. "This is in direct violation of agency policy, and raises
8 concerns whether Joshua should be permitted continued access
9 EDG's code bases in the future. EDG's development model relies
10 on very talented individuals across the country coming up with
11 technical solutions to some of the toughest cyber problems...
12 but it also relies entirely on the fact that all individuals
13 can be trusted to protect EDG, CCI, agency and IC equities by
14 following the security models with the appropriate accesses in
15 place to protect us all. Failure to do so puts our entire set
16 of cyber tools and those using them at risk for years to come."

17 Q. Did you agree with this assessment of what the defendant
18 had done?

19 A. I agree -- yes, I agree with what was written here.

20 Q. Was this something that you thought should be taken
21 seriously?

22 A. Yes.

23 Q. After you were alerted to this problem in your conversation
24 and this e-mail, what steps did you take?

25 A. Again, in consult with my deputy, with Anthony, in consult

K2J3SCH1

Karen - Direct

1 with human resources, security, legal, and my management, we
2 discussed what would be the appropriate next step. And what we
3 decided to do was, there was a memo written that was worked at
4 a lower level below me by Anthony, that basically laid out and
5 documented to reaffirm the policy, regulation and practices
6 related to how accesses are to be granted, removed, and not
7 worked around.

8 Q. From the menu of options that were available to you, why
9 did you settle on the memo as the right way to deal with the
10 situation?

11 A. So, this was a first -- the first time that this issue had
12 come up. This was -- we really opted to take a -- we took a
13 measured approach, a careful approach, not to escalate it to
14 more serious types of personnel actions. But to just make sure
15 the directions and the instructions were clear, and that we had
16 confirmed understanding that the policies had been communicated
17 and understood.

18 Q. Why didn't you present this memorandum to the defendant?

19 A. Again, we were trying to not escalate, and bring this
20 higher in the organization than we need to. We reserved the
21 possibility that, if things continued, we might have to do
22 that. But the best place to start, the normal way we go about
23 something like this is we worked these at the lowest level
24 possible, so we did that at the acting division chief level.

25 Q. Other than being given this memorandum, was the defendant

K2J3SCH1

Karen - Direct

1 punished in any way for what had happened?

2 A. No.

3 MR. DENTON: Ms. Hurst, can we put up Government
4 Exhibit 1616 again, please. And if we can go to the next page.
5 And blow up the second full paragraph, yes, right there. Thank
6 you.

7 Q. Ma'am, were you concerned that the extra scrutiny from this
8 incident will reveal all the issues with the security of EDG's
9 systems?

10 A. No.

11 Q. Did you attempt to pin anything on the defendant?

12 A. No.

13 Q. Would you describe your relationship with Jeremy Weber as
14 him being a faithful pawn?

15 A. I would never consider Jeremy Weber a pawn. He is a good
16 officer, he's a veteran, and he has his strong opinions. He is
17 not going to have somebody sway him or use him as a pawn. He's
18 a smart man, and very focused on the mission.

19 Q. Did this incident in fact reveal issues pertaining to the
20 security of EDG systems?

21 A. It did. We found that some of the practices needed to be
22 tightened up, and some of the way things were being managed
23 needed to be tightened up. It is a challenge in that
24 environment because of the type of work that has to be done on
25 it. You have to really work through how to implement some of

K2J3SCH1

Karen - Direct

1 those controls in a way that still allows them to do the work
2 that they need to do.

3 Q. What sort of practices needed to be tightened up?

4 A. Exactly who and how the accesses were tracked. But
5 honestly, it was multiple levels below me, so I'm not an expert
6 in that area.

7 Q. As a result of this incident, were you aware of any steps
8 taken to increase security on DevLAN?

9 A. Yes. Again, Anthony and Mike and I had had multiple
10 conversations. Anthony and Mike are both much more, had much
11 more detailed technical background in this area. So Anthony
12 was working, and we engaged Jeremy to go through and really
13 take a look at this system. And then we did make some
14 investments in some additional computer servers so that we
15 would have the ability to, again, manage code base, making sure
16 we had good backups and all that kind of stuff.

17 MR. DENTON: You can take that down. Thank you.

18 Q. Did there come another time later in 2016 when you learned
19 that defendant had again altered accesses on DevLAN?

20 A. Yes, a couple months later.

21 Q. What had your interactions, if any, with the defendant been
22 like in the intervening time?

23 A. I hadn't really seen him during that period of time. There
24 hadn't been anything related to his projects that had come to
25 my office, which is not unusual. He hadn't been in any of the

K2J3SCH1

Karen - Direct

1 various board meetings and things when I've been in the room.

2 I do a lot of work outside the building, and also -- so a lot

3 of times I don't see a lot of people. And then with him moving

4 to RDB, his location was now different, so I didn't see him

5 when I was walking to a conference room or things like I had in

6 the past when he was in OSB.

7 Q. So, what did you learn about the defendant later in 2016

8 with respect to accesses on DevLAN?

9 A. So, what I learned in I think it was June timeframe, late

10 May, that he had basically violated the memo that we had had

11 him sign, and gave himself access back again to things that he

12 had been -- had his access removed.

13 Q. Again, was that concerning to you?

14 A. Extremely.

15 Q. Again, why?

16 A. Again, policy, regulation, practice, all were a part of the

17 issue here. The trust factor, and now at this point, just

18 willfully and clearly going against what he had been directed,

19 both verbally by his direct management, and then also in the

20 memo that was done in April.

21 MR. DENTON: Ms. Hurst, can we go to Government

22 Exhibit 1085, please. If we can just blow up the top matter

23 there, please.

24 Q. Who sent this?

25 A. This was from Anthony.

K2J3SCH1

Karen - Direct

1 Q. Did you receive it?

2 A. Yes.

3 Q. If we can zoom back out. And what is Anthony relaying to
4 you in this e-mail? Just generally, we'll talk about some of
5 the specifics in a moment.

6 A. So, he was relaying his -- Anthony was relaying to Josh his
7 new planned work, a new capability for operations, and talked
8 about the updating permissions to this one set of code for one
9 of the tools.

10 MR. DENTON: If we can go down to the next page,
11 please. And if we can blow up the paragraph that starts
12 "first" just sort of through the end of that sequence, to the
13 end of the page. Thank you.

14 Q. Do you see here where in the middle of this first
15 paragraph, Anthony writes, "I told him that when changes were
16 made in early April they were directed by EDG management"?

17 A. Yes, I see that.

18 Q. Was that accurate?

19 A. Yes.

20 Q. Just continuing, he said, "He pressed on this issue
21 indicating that it was probably the C/EDG who he felt had a
22 problem with him."

23 A. I see that.

24 Q. What does C/EDG refer to?

25 A. That refers to me. Chief EDG. That's often the way it's

K2J3SCH1

Karen - Direct

1 shorthand.

2 Q. Did you have a problem with the defendant?

3 A. No. I now had concerns based on the incident in April with
4 the accesses and the difficulty we had had with him to sign the
5 memo, and then proceeding to do other things, I was extremely
6 concerned about that. But I had no personal issue with him.

7 Q. And just in the last part of this comment where it says
8 "These changes were not just made to him but also Amol." Do
9 you see that?

10 A. Yes.

11 Q. Was that part of the process that you were describing
12 earlier?

13 A. Again, we went through, and I'm not as familiar with all
14 the details, but the instructions were to go through and make
15 sure the accesses lined up with the officers. And if they were
16 moving to another branch, those accesses should be changed to
17 what was appropriate for the new branch. And it should be done
18 equally to everybody.

19 Q. So, could you then read the paragraph marked "second" for
20 us, please.

21 A. Yes. "Second, during this part of the conversation, Josh
22 said the following: In this case, where he felt that his
23 privileges were being removed unfairly, he wasn't going to just
24 allow it to happen and he would 'fight back.' These two words
25 caught me a little off guard, and I feel they are worth

K2J3SCH1

Karen - Direct

1 mentioning. Josh feels that he is being wronged in this
2 situation -- that his projects have been unfairly removed from
3 him, and that he's being punished unfairly."

4 Q. Again, I'm sorry if we covered this before. But why were
5 his projects removed from him?

6 A. He moved from one branch to another. His assignment was
7 changed. He was going to work on requirements that were
8 specific to his new branch RDB. His work was different. His
9 assignment was different.

10 Q. Was he being punished in any way?

11 A. No.

12 Q. What was your reaction to this paragraph?

13 A. It's -- it was extremely odd that someone would try to hold
14 on so strongly to a tool and some code, and drag it with them
15 to their new assignment. It was behavior that I hadn't really
16 observed before.

17 MR. DENTON: We can take that down. Thank you,
18 Ms. Hurst.

19 Q. After you learned about this issue, what did you decide to
20 do?

21 A. Well, in June, we made the decision to escalate the
22 direction, instruction, and issue what's known as a letter of
23 warning.

24 Q. In general, in CIA practice, is a letter of warning a
25 significant event?

K2J3SCH1

Karen - Direct

1 A. Yes, it's very significant.

2 Q. Why is that?

3 A. It is one that is officially taken as an action that you
4 are putting an employee on notice that there are some
5 significant issues. It's documented, it's coordinated with all
6 the personnel, HR, security, legal, and it becomes and is added
7 to their file. It basically puts someone on notice that, hey,
8 you better correct your behavior, you have a problem.

9 MR. DENTON: Ms. Hurst, can we put up Government
10 Exhibit 1094, please.

11 Q. Ma'am, what is this?

12 A. This is, this is the letter of warning.

13 Q. Did you prepare this letter?

14 A. It was written and drafted by a number of us, actually. So
15 there were a lot of inputs, including Anthony, Mike my deputy
16 to a degree, HR, security, and legal. So there were a lot of
17 inputs in writing this letter. I was very involved in it, yes.

18 Q. Was this memo given to the defendant?

19 A. The memo was presented to him in a meeting.

20 (Continued on next page)

21

22

23

24

25

K2jWsch2

Karen - Direct

1 BY MR. DENTON:

2 Q. Generally speaking, in terms of that meeting, what was the
3 defendant's demeanor like?

4 A. He was quiet, and he did not make eye contact at all with
5 me. And he stared at the memo, and basically we walked through
6 it and talked about it. And he took issue with a number of
7 points in the letter.

8 MR. DENTON: Ms. Hurst, could we blow up the paragraph
9 marked No. 2.

10 Q. Now, do you see where it says, "Your email to Susan dated 3
11 June 2016 identified your concern that on 4 April your admin
12 privileges to EDG/AED/OSB project Brutal Kangaroo were changed
13 by Jeremy Weber without authorization"?

14 A. Yes.

15 Q. Had his privileges been changed without authorization?

16 A. No, that's not correct. Jeremy was working under direction
17 of his management.

18 Q. Was that something you confirmed before preparing this
19 letter?

20 A. Yes.

21 MR. DENTON: If we can zoom back out and go down to
22 paragraph 3.

23 Q. Just as a process matter, there's a couple of lines here
24 that are marked out and then something handwritten there.

25 A. Yes.

K2jWsch2

Karen - Direct

1 Q. Do you recognize the handwriting?

2 A. Yes. The handwriting's mine.

3 Q. And did you also make those strikeouts?

4 A. I did.

5 Q. Why did you do that?

6 A. As we walked through and discussed the memo, the letter of
7 warning with Joshua, he took issue with many lines in the
8 document, and I was really looking for a place where we could
9 come to some agreement. And in this particular paragraph, I
10 was willing to accept these as the edits to that, or changes to
11 that paragraph. So we deleted the two sentences and then added
12 in its place the sentence I wrote in by hand.

13 Q. Now, during the course of this meeting, did you consider
14 seriously the things the defendant said to you?

15 A. Certainly.

16 Q. Why did you do that?

17 A. Because that's the way I always operate, going through and
18 hearing a person out and trying to understand where they're
19 coming from, and if -- this is a complex business. If there's
20 something that I didn't understand or had been communicated to
21 me differently, to hear and -- hear him out and make sure that
22 I had considered everything that was involved.

23 MR. DENTON: Ms. Hurst, could we go to the next page
24 of this exhibit, please, and if we could just blow up the
25 printed text portions.

K2jWsch2

Karen - Direct

1 Q. Now, there's a couple of points here where you've marked
2 things with an asterisk. Do you see that?

3 A. Yes.

4 Q. Why did you do that?

5 A. Those two points, there's a note at the bottom of the page
6 I wrote in that Joshua disagreed with those points.

7 Q. Why didn't you strike these lines out?

8 A. Because I noted that he disagreed, but this was my
9 statement and this, I felt, was true.

10 Q. And what was the first statement the defendant disagreed
11 with? Could you read that, please?

12 A. "These actions violated the policy stated and instructions
13 given in the memorandum you signed on 18 April 2016, referenced
14 above."

15 Q. How did the defendant violate the memorandum that he had
16 signed?

17 A. So, the memorandum basically gave him specific instructions
18 on not giving himself access when he had not been granted
19 access; he couldn't independently take that action. And that
20 was in the memo.

21 Q. Now, going down to the bottom paragraph here, what was the
22 second portion that the defendant disagreed with?

23 A. "You were aware of the policy for access and your
24 management's lack of support for you to retain administrative
25 privileges, but nonetheless, you took steps to deliberately

K2jWsch2

Karen - Direct

1 violate that policy and gain those privileges."

2 Q. We've talked about policies in general. Are there policies
3 with respect to administrative privileges?

4 A. Yes.

5 Q. Are those important policies?

6 A. Yes.

7 Q. Why?

8 A. Having administrative privileges, depending on the
9 different levels, gives someone additional access to be able to
10 get into, in this case, code or whatever data, etc., and do
11 things with it. And that -- this is really important
12 technology, capability, so people have access when they need
13 it, and they don't have access when they don't need it.

14 MR. DENTON: If we can zoom out on this page, please,
15 Ms. Hurst.

16 Q. Did you sign this letter?

17 A. I did.

18 Q. Did the defendant sign it?

19 A. He did not.

20 Q. Why not?

21 A. He -- as we briefed it and walked through, he had his
22 disagreement points, as I mentioned, and at the end, it is also
23 our practice and policy that the officer is -- has the option
24 not to sign the letter of warning. So he opted not to sign it.

25 Q. And who else was present at this meeting?

K2jWsch2

Karen - Direct

1 A. Our head of HR, Susan, and my deputy Mike were in the room.

2 Q. Why were all of you there?

3 A. One, as resource people and experts for the policies'
4 communication; also, for continuity of the conversation because
5 as we had worked through the issues of the moving of personnel
6 in the branches earlier in the year and the first refer -- the
7 first memo, etc., they had been involved in the conversation
8 along the way.

9 Q. Following this meeting, did you have any other interactions
10 with the defendant?

11 A. No.

12 Q. Did there come a time when you left EDG?

13 A. Yes, in -- even in June there was already work underway for
14 me to move to a new assignment, so I officially left later that
15 summer to a new assignment.

16 Q. And roughly when was that?

17 A. About August.

18 Q. I want to ask you to think a little bit forward in time to
19 March of 2017. Did there come a time in March of 2017 when you
20 heard the term "Vault 7"?

21 A. Yes.

22 Q. What does Vault 7 refer to?

23 A. That refers to the information that was leaked.

24 Q. And where did that information come from?

25 A. I had been told it came from EDG.

K2jWsch2

Karen - Cross

1 Q. And where was it leaked to?

2 A. WikiLeaks.

3 Q. What was your reaction when you learned the type of
4 information that had been published by WikiLeaks as Vault 7?

5 A. I was sick to my stomach.

6 Q. Why?

7 A. For many reasons. That is a -- those capabilities, any of
8 that information getting out into a forum like that can hurt
9 people and impact our mission. It's a huge loss to the
10 organization and puts, potentially puts people at risk.

11 MR. DENTON: Ms. Hurst, could we pull up page 9 of
12 Government Exhibit 809. Can we blow up the paragraph that
13 starts "The@Department of Justice."

14 Q. Now, do you see where it says, "Jeremy Weber and Karen at
15 the CIA set up Joshua Schulte"?

16 A. Yes, I can read that.

17 Q. Did you and Jeremy Weber set up the defendant for the Vault
18 7 leak?

19 A. No, I did not.

20 MR. DENTON: No further questions, your Honor.

21 THE COURT: Ms. Shroff.

22 MS. SHROFF: Thank you, your Honor.

23 CROSS-EXAMINATION

24 BY MS. SHROFF:

25 Q. EDG told you that the information in Vault 7 came from EDG?

K2jWsch2

Karen - Cross

1 A. No, I did not hear that from EDG directly.

2 Q. I'm sorry. Did I miss that on direct? Is that not what
3 you said?

4 A. EDG did not tell me that.

5 Q. Who told you?

6 A. I read it in the headlines.

7 Q. You read it in the headlines?

8 A. Newspaper.

9 Q. That's how you learned about where --

10 A. I was not involved or assigned at EDG or CCI at the time
11 this happened, so I had no direct information.

12 Q. Could you let me finish my question before you answer it?
13 Yes?

14 A. Certainly.

15 THE COURT: Yes.

16 Q. Thank you.

17 THE COURT: And you should do the same.

18 MS. SHROFF: I was trying, your Honor. Thank you.

19 THE COURT: As a matter of courtesy.

20 BY MS. SHROFF:

21 Q. Let's try it again. Who told you that the information that
22 was leaked in Vault 7 came from EDG?

23 A. I heard about it, read about it in the headlines.

24 Q. OK. Now, you also testified that you learnt that the
25 information was leaked to WikiLeaks, correct?

K2jWsch2

Karen - Cross

1 A. Later, yes.

2 Q. You don't know that to be true, correct?

3 A. I have not been personally involved in that.

4 Q. In fact, nobody knows who it was leaked to; all you know is
5 that it was released by WikiLeaks?

6 A. Is there a question there?

7 Q. Yes. That was the question.

8 A. Could you repeat the question?

9 Q. Sure. Sitting here today, do you know who the information
10 was leaked to?

11 A. I do not.

12 Q. Does the CIA, in your opinion, know who the information was
13 leaked to?

14 MR. DENTON: Objection.

15 THE COURT: Sustained.

16 Q. What's your present position?

17 A. I'm the assistant director of national intelligence for
18 systems and resource analysis at the office of the director of
19 national intelligence.

20 Q. And that's part of the CIA, right?

21 A. It is not.

22 Q. It is not. What's the highest position you ever held at
23 the CIA?

24 A. That would -- at the CIA?

25 Q. Yes.

K2jWsch2

Karen - Cross

1 A. Office director, director of the office of acquisition
2 management in the digital directorate for innovation.

3 Q. And in 2017, March of 2017, what was your position?

4 A. I was the director of the office of acquisition management.

5 Q. And it is your testimony today that you do not know who the
6 information was leaked to; that is, the Vault 7 information?

7 A. That is correct.

8 Q. Right. Am I correct, ma'am, that, in fact, nobody at the
9 CIA knows who the information --

10 MR. DENTON: Objection.

11 Q. -- was leaked to?

12 THE COURT: Sustained.

13 Q. Did you talk to management about the Vault 7 leak?

14 A. I did.

15 Q. Did you talk to Mr. Roche about the Vault 7 leak?

16 A. I did.

17 Q. Did you talk to Mike S. about the Vault 7 leak?

18 A. Uh, no.

19 Q. Let's start with the first two that you talked to. You
20 talked to Mr. Roche, correct?

21 Did Mr. Roche ever inform you that he knew who the
22 information was leaked to?

23 MR. DENTON: Objection.

24 THE COURT: Sustained.

25 Q. Do you know when WikiLeaks leaked the information?

K2jWsch2

Karen - Cross

1 A. I know that the headline in the paper was in March of 2017.

2 Q. Do you know when the CIA assumes that information was
3 taken?

4 MR. DENTON: Objection.

5 THE COURT: Overruled.

6 A. Again, I have not been involved and I do not know.

7 Q. You don't know that they think it was taken in April of
8 2016?

9 A. I do not. I have not had any insight since I left the
10 position.

11 Q. OK. In April -- let's start with March. In March of 2016,
12 you were head of EDG, right?

13 A. That's correct.

14 Q. And before March of 2016, did you have any personal
15 knowledge of what was going on in OSB?

16 A. I was aware of the work going on in all the branches to --
17 at least at a top level.

18 Q. What does that mean, at least at a top level?

19 A. There are many, many projects, programs, efforts going on
20 across what is a large organization. I'm multiple layers
21 removed from the very detailed of what's going on, but I would
22 be aware at a top level of the list of projects, of any
23 projects or programs that were particularly important or -- or
24 were having problems.

25 Q. OK. So is it fair to say that your knowledge of what was

K2jWsch2

Karen - Cross

1 going on at the developer level in OSB was the information you
2 got from your immediate deputy? Correct?

3 A. From my deputy and my division chief below that, and on
4 occasion, the branch chief, but much less frequent.

5 Q. So who was your deputy in March? Was that Debra?

6 A. The deputy in March of 2016 was Debra.

7 Q. Right. And Debra was on her way out, correct?

8 A. She was in the process of transitioning to a new
9 assignment.

10 Q. And Mike S. was on his way in?

11 A. Different jobs. Mike S. was my deputy.

12 Q. OK.

13 A. Debra worked below that as a division chief, below Mike and
14 I.

15 Q. So who took over Debra's job?

16 A. The position was vacant. The new deputy division chief was
17 Anthony.

18 Q. OK.

19 A. So he, as she moved on, became the acting division chief.

20 Q. So Debra moved on, there's a slight vacancy, and then
21 Anthony comes in, correct?

22 A. There was -- yes, that's true.

23 Q. Right. And right below, also, there is a transition,
24 correct?

25 A. The branch chief, Sean --

K2jWsch2

Karen - Cross

1 Q. Right.

2 A. -- he was in the process of working to move to a new
3 assignment.

4 Q. Well, he wasn't in the process of working to move to a new
5 assignment, right? By March, he'd already had a new
6 assignment. He had an end date in OSB of April 15, or did you
7 not know that?

8 A. So, I said in March he was working to transition to a new
9 assignment. That's true.

10 Q. Right. By March he had received a new job within the CIA,
11 correct?

12 A. Yes.

13 Q. He was for sure leaving OSB, correct?

14 A. Yes.

15 Q. He had an end date of April 15, correct?

16 A. I'm not aware of the specific date.

17 Q. OK. And is it fair to say that part of the reason he was
18 leaving was because of the concerns of his management style of
19 OSB?

20 A. I do not know that.

21 Q. You don't know that?

22 A. I do not know that.

23 Q. Now, when was the first time you became aware of a physical
24 fight between two developers in OSB?

25 A. Not until the incident with the threat management unit

K2jWsch2

Karen - Cross

1 brought all that to my attention.

2 Q. OK. And that was in end of February, March of 2016, right?

3 A. Yes.

4 Q. Do you know when that physical fight was?

5 A. No.

6 Q. Sitting here today, you still don't know when that physical
7 fight was?

8 A. No.

9 Q. Would it surprise you to know that it was in October of
10 2015?

11 A. OK.

12 Q. No, that wasn't the question. The question was would that
13 surprise you to know?

14 A. It does not surprise me.

15 Q. OK. Now, do you remember that document Mr. Denton showed
16 you, the pop-up email about your one-on-one? Remember that?

17 A. Yesterday, yes.

18 MS. SHROFF: Yes. Could we pull that up.

19 Q. Is that the entirety of the email that is sent out?

20 A. This would be a scheduling appointment, so it's just a
21 calendar appointment, yes.

22 Q. Right. So it's not like an invitation that says, Dear
23 so-and-so, it's time for our annual one-on-one, right?

24 A. No.

25 Q. It's just a calendar; it goes out to everyone, correct?

K2jWsch2

Karen - Cross

1 A. As the -- as my secretary was working this, she would have
2 set those schedules up.

3 Q. Right. So it goes out to all the developers, and then they
4 just schedule this one-on-one with you, correct?

5 A. She works each of them separately.

6 Q. Well, of course.

7 A. Yes.

8 Q. She sends them out, correct?

9 A. Yes.

10 Q. And the date on this is November of 2015?

11 A. Correct.

12 Q. After October, correct?

13 A. Correct.

14 Q. And did you, by any chance, meet with all the developers in
15 this one-on-one?

16 A. I -- during the course of a calendar --

17 Q. No. I'm just asking you if you recall meeting with all of
18 the developers in November of 2015.

19 A. Then, no, I did not do them all in November.

20 Q. OK. Do you remember if you met with all of the developers
21 sometime after November 30 of 2015?

22 A. I would not have met with all of them in the time period
23 from this November to the end of the calendar year.

24 Q. OK. How about until January?

25 A. The cycle for these was calendar year, so I would have met

K2jWsch2

Karen - Cross

1 with them through the course of 2016. By this time, I would
2 have been finishing up the list of whoever I had not had a
3 chance to meet with during the course of the year.

4 Q. Oh. So you are coming towards the end of 2015, so you're
5 trying to meet up with everybody you have not met up with yet?

6 A. Correct.

7 Q. And sitting here today, you do not know who else you met up
8 with in November of 2015, correct?

9 A. Correct.

10 Q. And is it fair to say that sitting here you would not even
11 be able to tell me, for example, if you met with Justin
12 Nichols? For example, right?

13 A. I don't know.

14 Q. OK. How about Michael K.?

15 A. I don't know.

16 Q. Did you have a one-on-one with Sean F.?

17 A. I would have possibly earlier in the year.

18 Q. You would have had one with him earlier in the year?

19 A. Uh-huh.

20 Q. To get a status report of what's going on in OSB?

21 A. The one-on-one conversations, like I indicated yesterday,
22 were -- there was no set agenda, so we would have talked about
23 whatever the officer had on their mind as to how things were
24 going or what they wanted to talk about. Sometimes it was very
25 social, but purposefully, on my end, it was whatever they

K2jWsch2

Karen - Cross

1 wanted to talk about, whatever they had in mind.

2 Q. Whatever they wanted to talk about?

3 A. Uh-huh.

4 Q. And you didn't prepare for the one-on-one?

5 A. Correct.

6 Q. You didn't say I'm going to ask my --

7 Did you call her your secretary? Is it secretary? You had
8 a secretary?

9 A. Uh-huh.

10 Q. -- your secretary to get a cheat file on each person --

11 A. No.

12 Q. -- whatever their interests were?

13 You didn't know anything about the person, correct?

14 A. Correct.

15 Q. This was all left up to them, correct?

16 A. It was a meet-and-greet social kind of meeting.

17 Q. How long did they last, by the way?

18 A. Generally about a half an hour.

19 Q. Half an hour. And how far is your office from OSB?

20 A. Well, it was in -- same floor --

21 Q. Uh-huh.

22 A. -- across the hall from the vault we worked in --

23 Q. Uh-huh.

24 A. -- and then down towards the end of the building. I don't
25 know -- I don't know exactly how far that is.

K2jWsch2

Karen - Cross

1 Q. OK. And after these one-on-ones, you didn't really do any
2 follow-up, right?

3 A. No. In general, not. Sometimes I would learn about a
4 project or something that might come up that might get me to
5 think about something I should, you know, learn more about.
6 But in general, no. They were just very -- again, they were
7 designed to just open up a line of communication with the
8 officers.

9 Q. So your thinking was that you were pretty good at creating
10 rapport; that's what you said yesterday, right?

11 A. Yes.

12 Q. You thought you had a skill set that built rapport with the
13 people that were having these 30-minute one-on-ones with you,
14 right?

15 A. Yes.

16 Q. The one-on-ones were in your office, right?

17 A. Yes.

18 Q. Set up by your secretary, correct?

19 A. Yes.

20 Q. The people walked in, sat down and had a little chat with
21 you for 30 minutes, correct?

22 And you testified, on direct, did you not, that the chat
23 you had with Mr. Schulte stood out for you because he didn't
24 make eye contact, is that right?

25 A. That is correct.

K2jWsch2

Karen - Cross

1 Q. So you had a person come in for 30 minutes and make no eye
2 contact with you, correct?

3 A. Uh-huh. Yes.

4 Q. That was in November, sometime in November of 2015,
5 correct?

6 A. Uh-huh. Yes.

7 Q. And you thought that was odd, correct?

8 A. Correct.

9 Q. And you did nothing to follow up on that oddity, is that
10 correct?

11 A. I --

12 Q. No, right?

13 A. No, I didn't.

14 Q. You didn't say to his boss: Hey, you know, I had a meeting
15 with Mr. Schulte. He made no eye contact. What's going on
16 with him? No?

17 A. I don't recall.

18 Q. Right. Did you ask any of the other developers how things
19 were going in OSB as part of this one-on-one?

20 A. As part of Josh's one-on-one?

21 Q. Well, not specifically him, but just generally.

22 A. I don't know if I had any other meetings with OSB officers
23 during that time.

24 Q. Let's fast forward a little bit and ask you this. Did
25 there come a time when you were talking to Bonnie and Bonnie

K2jWsch2

Karen - Cross

1 told you that perhaps he didn't make eye contact because she
2 thought he had Asperger's? Do you recall that?

3 A. We had that conversation when we were trying to figure out
4 how to handle the situation.

5 Q. Right. And it never occurred to you back then, in October
6 of 2015, that that might be the reason for the no eye contact,
7 correct?

8 A. It was the first time --

9 Q. Just yes or no.

10 A. No, it had not occurred to me.

11 Q. And you never, ever asked anybody anything about the
12 failure to make eye contact, correct?

13 A. Correct.

14 Q. OK. Now, let's talk about information flow, about the
15 information that came to you. OK? You've already testified
16 that you had no idea about the October 2015 physical fight,
17 correct?

18 A. Correct.

19 Q. And when you learnt that there had been a physical fight,
20 you were very concerned, were you not?

21 A. Certainly.

22 Q. Right. And what did you do to assuage that concern that
23 you had?

24 A. So, as I indicated yesterday, by the time I became aware of
25 all of this, the threat management unit had already been

K2jWsch2

Karen - Cross

1 contacted.

2 Q. Right. But the threat management unit had been contacted
3 because of Mr. Schulte and Amol, right?

4 A. Correct.

5 Q. Right. But the physical fight was between whom?

6 A. I don't know.

7 Q. You don't know?

8 A. I don't know.

9 Q. But it was a physical fight that you were concerned about?

10 A. By the time I found out about this, the threat management
11 unit investigation was already ongoing, so --

12 Q. Right. But the threat management investigation unit did
13 not involve that October 2015 physical fight, did it?

14 A. I do not know.

15 Q. You're concerned, correct?

16 A. Yes.

17 Q. You're upper management, correct?

18 A. Yes.

19 Q. This is a serious mission, correct?

20 A. Yes.

21 Q. You know of two grown men who have a physical fight,
22 correct?

23 A. I learned it at that time, yes.

24 Q. Right. Whenever you learnt it, ma'am, the moment you
25 learnt of it, you were concerned, correct?

K2jWsch2

Karen - Cross

1 A. Yes.

2 Q. And there was only one physical common denominator that
3 precluded you from talking to Mr. Schulte and Amol; that was
4 TMU, correct?

5 A. Correct.

6 Q. You took no steps at all to talk to the person, other
7 person involved in the physical fight, correct?

8 A. Correct.

9 Q. You directed no one to talk to that other person, correct?

10 A. Correct.

11 Q. You never checked to see if that person was OK, correct?

12 A. By the time I learned about this --

13 Q. Ma'am --

14 A. -- it was months afterwards.

15 Q. Months or years afterwards, did you check?

16 A. No.

17 Q. Did you assign someone to check? Yes or no.

18 A. No.

19 Q. Did there come a point, ma'am, when you were told by either
20 Debra or someone else that there had been an incident on
21 February 29?

22 A. February 29, I'm not familiar with the exact date.

23 Q. OK. And when Debra came to your office, your instruction
24 to her was, Get to the bottom of this, correct?

25 A. I told her she needed to meet with all the off -- the

K2jWsch2

Karen - Cross

1 officers involved and speak with the branch chief to figure out
2 what's going on.

3 Q. Tell me, please, what was the conclusion Debra reached
4 after she spoke to Sean?

5 A. So, to my memory, after Debra and I spoke about meeting
6 with everyone and engaging HR, etc., it was the end of the day.
7 By the time she was able to get back, the threat management
8 unit had already been engaged, so we were not able -- she was
9 not able to really implement the plan as we had talked about,
10 because when threat unit, management unit engaged, we had to
11 back off so that they could do their investigation.

12 Q. You keep saying that, but my question was different, ma'am.
13 My question wasn't whether or not Debra engaged with
14 Mr. Schulte. My question was not whether Debra engaged with
15 Amol. My question was whether Debra engaged with their boss at
16 that time, who was Sean F.

17 MR. DENTON: Objection, your Honor.

18 THE COURT: Overruled.

19 BY MS. SHROFF:

20 Q. Did she?

21 A. I don't recall.

22 Q. Did you ever say: Hey, Sean, come up to my office so we
23 can talk about this. I'm very concerned?

24 A. Uh --

25 Q. Just yes or no.

K2jWsch2

Karen - Cross

1 A. No.

2 Q. Did you learn at any point in time that on March 1, Amol,
3 who was a project leader, took Mr. Schulte off of a project and
4 put another developer named David on the project? Did you ever
5 learn that?

6 A. No, I did not.

7 Q. Now, did there come a point when you actually learned that
8 Sean had neglected to tell his immediate supervisor -- I
9 believe her name was Sunny -- about any of the issues that were
10 going on in OSB? Did you just learn that fact?

11 A. At the time this all --

12 Q. Just yes or no, ma'am.

13 A. Yes.

14 Q. And you learnt that Sunny was completely in the dark and
15 had no knowledge from Sean as to what was happening, correct?

16 A. That's not accurate.

17 Q. OK. By the time you became involved, am I correct, as
18 you've pointed out many times, that TMU was involved so neither
19 you nor anyone else interacted with Amol or Mr. Schulte?
20 Correct?

21 A. When this first happened, that is correct.

22 Q. OK. Now, you also testified on direct that as part of your
23 job description, for lack of a better phrase, you interacted
24 with many different levels and groups outside of the branches
25 that you supervised, correct?

K2jWsch2

Karen - Cross

1 A. Correct.

2 Q. And one of the functions of your job was to make sure,
3 wasn't it, to keep in mind the security of the base, is what
4 you called it? Correct?

5 A. Yes.

6 Q. OK. In 2015, did you come to learn that the entire DevLAN
7 system had gone down?

8 A. I do not recall that.

9 Q. Do you recall that somebody had failed to update or keep
10 updated the certificate of accreditation on DevLAN?

11 A. I don't recall that specifically.

12 Q. Do you recall that Mr. Schulte discussed with you the fact
13 that he was at that time in Las Vegas and was called about the
14 entire system going down?

15 A. Josh never told me that.

16 Q. OK. Did anyone ever tell you that they had to contact the
17 one developer, who was in Las Vegas at a conference, to figure
18 out why all of DevLAN had gone down because somebody did not
19 upgrade its certificate or keep it current?

20 A. That is not accurate.

21 Q. OK. Well, correct me.

22 A. There's not -- there was not one person that would have had
23 to be contacted to resolve that problem.

24 Q. Did you ever come to learn that in 2015 there had been a
25 lapse of licensing on Stash?

K2jWsch2

Karen - Cross

1 A. No.

2 Q. Did you ever come to learn that it affected the entire
3 office?

4 A. It might have affected the developers, but that's not the
5 entire office.

6 Q. You don't think that the lack of having an updated license
7 that impacts all of the developers in OSB is an important
8 security issue?

9 A. I do think that's important; it's just not the entire
10 office.

11 Q. OK. Who does the most mission-focused work in OSB?

12 A. In OSB?

13 Q. Yes.

14 A. The developers.

15 Q. So the most important work to the CIA's mission is done by
16 OSB, correct?

17 A. No, that's not correct.

18 Q. Oh, it's not? The developers in OSB, right?

19 A. There are other branches that would do equally as important
20 work.

21 Q. OK. Did you learn that Stash had gone down because nobody,
22 in whatever group you want to call it, had failed to update the
23 license? Did you ever learn that?

24 A. No, I did not.

25 Q. And did you ever learn or were you ever told that the

K2jWsch2

Karen - Cross

1 developers were at a conference in Las Vegas and had to be
2 called to fix it?

3 A. I don't recall that.

4 Q. Do you recall an employee named Justin Nichols?

5 A. Yes.

6 Q. Did you ever have a one-on-one with him when he mentioned
7 that to you?

8 A. He never mentioned that to me.

9 Q. Do you recall at any point in late 2015 and 2016 being told
10 that because the system had gone down this way, they should
11 hire a new person to work and keep the programs running?

12 A. I don't recall that.

13 Q. Why was Rufus hired?

14 Let me help you out. Do you know who Rufus is?

15 A. I do not.

16 Q. Now, in describing your job, you said that you worked with
17 other parts of the CIA, right?

18 A. I did, yes.

19 Q. What is CIMC, by the way?

20 A. That is the Counterintelligence Mission Center.

21 Q. OK. And what exactly do they do?

22 A. They work counterintelligence issues.

23 Q. Right. And you coordinate with them, correct?

24 A. I did not personally coordinate with them.

25 Q. I don't mean ever personally. I just mean in your job

K2jWsch2

Karen - Cross

1 description. You do not coordinate with them?

2 A. I did not, at the -- no.

3 Q. By the way, did you ever use DevLAN?

4 A. I did not.

5 Q. Do you know anything about DevLAN?

6 A. I knew that it would -- DevLAN existed; that it was the
7 development environment for the hands-on developers.

8 Q. What does that mean, development environment?

9 A. That's where they would -- most or a lot of the work was
10 done.

11 Q. And when you had this very high-level knowledge of DevLAN,
12 did you ever hear the phrase "Wild West" being used to describe
13 it?

14 A. What? What was that? I didn't hear the word.

15 Q. Wild.

16 A. No, I never heard that.

17 Q. You never heard that, right?

18 A. No.

19 Q. Did you ever hear your developers or people in OSB talking
20 about the weakness or insecurity of DevLAN?

21 A. No.

22 Q. You never heard anyone discuss the insecurities of DevLAN
23 even after the Snowden leaks; is that your testimony?

24 A. I never heard that. They never told that to me.

25 Q. OK. So if developers were talking after the Snowden leak

K2jWsch2

Karen - Cross

1 and mentioned that your system was at similar risk, you never
2 heard that, correct?

3 A. I do not recall any of that.

4 Q. Now, you testified on direct that you remained disengaged
5 from Mr. Schulte because you had received input that
6 Mr. Schulte did not like you? Is that -- you phrase it,
7 because I don't want to put words in your mouth.

8 A. The way I remember it is that it was relayed to me that he
9 was uncomfortable with me.

10 Q. And when that was relayed to you, was that related -- was
11 that told to you by one of your deputies?

12 A. It was told to me by Mike and by Anthony.

13 Q. OK. So Anthony had been -- when Anthony had told you that,
14 Anthony had been in the job for, what, two or three months? Or
15 less?

16 A. A couple of months.

17 Q. A couple of months, right? And you don't remember, sitting
18 here today, when Mike told you that, correct?

19 A. I don't remember.

20 Q. And by the way, did you ever have a discussion with Mr.
21 Roche about that?

22 A. Any discussion about Josh with Mr. Roche happened long
23 after I had left the assignment.

24 Q. After you left the assignment?

25 A. Yes.

K2jWsch2

Karen - Cross

1 Q. OK. So during the time that you were still head of EDG,
2 you never spoke to Sean Roche about it, correct?

3 A. Not that I recall.

4 MS. SHROFF: OK. Now, let's take a look at, if I
5 could, the memo of warning. OK? Could somebody pull it up for
6 me.

7 No. That's the letter.

8 THE COURT: What's the exhibit number, Ms. Shroff?

9 MS. SHROFF: It's 1095, your Honor.

10 THE COURT: Thank you.

11 MS. SHROFF: Sorry about that.

12 Q. Could you just take a look at this document?

13 MS. SHROFF: And let's focus on the to-from and the
14 first paragraph.

15 Q. Am I correct that you -- did you get a copy of this
16 memorandum at the time it was sent?

17 A. As I recall, I did re- -- I did see a copy.

18 Q. Did you see a copy after it was fully drafted, or did you
19 participate in its draft?

20 A. I don't remember.

21 Q. You don't remember, correct?

22 A. I don't remember.

23 Q. OK. Is it fair to say that you had no personal knowledge
24 of whether or not Mr. Weber removed Mr. Schulte's privileges on
25 the OSB library on his own?

K2jWsch2

Karen - Cross

1 A. Mr. Weber was directed to go through and review and clean
2 up accesses, and so, yes, I know that he was directed to
3 basically make sure that people had the appropriate accesses,
4 based on their jobs.

5 Q. Who told you that?

6 I'm sorry. Have you finished? Just finish.

7 A. I'm done.

8 Q. Are you finished?

9 A. Yes.

10 Q. Who told you that?

11 A. It was part of the discussion that we had with Mike S. and
12 with -- with Anthony.

13 Q. The question was who told you that?

14 A. Who told me what?

15 Q. Who told you that that is what the assignment was to
16 Mr. Weber? Who told you that?

17 A. Mike would have been the one to tell me that.

18 Q. Mike would have been the one?

19 A. Yes.

20 Q. Do you know?

21 A. I don't recall specifically.

22 Q. OK. So let's try it again. You did not tell Mr. Weber to
23 remove any of Mr. Schulte's privileges, correct?

24 A. Correct.

25 Q. You did not directly know who told Mr. Weber, correct?

K2jWsch2

Karen - Cross

1 A. Anthony would have told him.

2 Q. I didn't ask you who would have told him, ma'am. Who knows
3 who may have told him? I'm only asking you if you know.

4 A. I don't --

5 Q. Do you know?

6 A. I don't recall.

7 Q. OK. So is it that you don't actually recall or that you
8 don't know? Which one is it?

9 A. I don't recall.

10 Q. OK. Do you, sitting here today, even recall when was the
11 first time that Mr. Weber removed these privileges?

12 A. No.

13 MS. SHROFF: OK. So let's just move down in this
14 memo. Let's go to the second paragraph.

15 Q. "As part of this process on early April 2016," correct,
16 you, sitting here today, have no personal knowledge of those
17 facts, correct?

18 A. Of which facts?

19 Q. Well, that something happened on early April of 2016. You
20 never learn about this until well after April, correct?

21 A. I'm sorry. I don't understand your question.

22 Q. OK. I'll try it again. Early April, you were not aware at
23 all about what Jeremy Weber is doing about accesses, correct?

24 A. That is not accurate.

25 Q. OK. Tell me how it's not accurate.

K2jWsch2

Karen - Cross

1 A. I know that he was directed by his supervisors to go
2 through and clean up the accesses.

3 Q. You don't know that, though, correct? Nobody -- all you --
4 you don't know that. There's no memo to you saying that,
5 correct?

6 A. I don't believe there's a memo.

7 Q. There's no email to you saying that, correct?

8 A. I don't believe there's an email.

9 Q. There's no contemporaneous note, correct?

10 A. No.

11 Q. In fact, in early April, you have no involvement; you're
12 not engaged in the process at all, correct?

13 A. I'm getting regular updates from my deputy and from
14 Anthony.

15 Q. You are getting regular updates from your deputy about
16 somebody changing accesses on the OSB libraries?

17 A. That they were in the process of going through and cleaning
18 up the accesses, I was made aware of that.

19 Q. Just they were cleaning up accesses; that's the high-level
20 information you have?

21 A. Yes.

22 Q. OK. So at that high-level information, you still don't
23 know if Jeremy Weber was ever authorized prior -- not supported
24 in his decision -- was authorized prior to the time to remove
25 access, correct?

K2jWsch2

Karen - Cross

1 A. I don't know.

2 Q. Exactly. Do you recall who Amol is?

3 A. Yes.

4 Q. Have you spoken to --

5 MS. SHROFF: You can take that down for now.

6 Q. Have you spoken to Amol during your time when you were head
7 of EDG?

8 A. Yes.

9 Q. Did you ever sit down and have a one-on-one with Amol?

10 A. Yes.

11 Q. Do you recall your one-on-one with Amol?

12 A. No.

13 Q. Do you recall if he told you what his goals were at the
14 CIA?

15 A. I don't recall.

16 Q. Do you recall whether or not he was interested and devoted
17 to being a coder?

18 A. I know he had a number of interests and had done some --
19 some different types of coding things. He had a different
20 background. But I don't recall anything specific.

21 Q. Do you recall that he was interested in management and not
22 coding?

23 A. No.

24 Q. Do you recall if he wanted to be part of the leadership and
25 not remain a coder?

K2jWsch2

Karen - Cross

1 A. I do not recall that.

2 Q. Do you recall ever saying to someone, Before I move them,
3 let me evaluate the skill sets of these two individuals? You
4 testified to that, right?

5 A. Yes. We had to determine their skill sets to figure where
6 they would fit well.

7 Q. OK. And in determining their skill sets, did you ask Amol,
8 Where do you see yourself going so we can place you properly?

9 A. No, we did not have a conversation.

10 Q. And did you have a conversation with Sean about that as to
11 what Amol wanted to see for his future before you placed him?

12 A. No, I don't recall doing that.

13 Q. So how did you determine what his skill set was if you
14 didn't talk to Amol and you didn't talk to Sean? Or was there
15 anybody I'm missing in this layer of hierarchy, because I don't
16 know your hierarchy well?

17 A. So, again, my conversations were with my deputy and with
18 the acting division chief, Anthony, who was working with the
19 branch, and we did need to have them identify what skills the
20 officers had --

21 Q. Let's go --

22 A. So that was relayed.

23 Q. Sorry. That was what?

24 A. That was relayed up the chain.

25 Q. And Anthony was in that job for three months, at most --

K2jWsch2

Karen - Cross

1 not even, correct?

2 A. Anthony, yes.

3 Q. Right. So let's put him aside for a minute. Your deputy
4 was Mike S.?

5 A. Yes.

6 Q. He didn't know what their skill sets were, correct? He did
7 not work with them directly, right?

8 A. He did not work with them directly.

9 Q. OK. Let's put them aside. How did you -- let's back up.
10 How did you figure out what their skill sets were?

11 A. So, identified by their branch manager as to what their
12 skill sets and possibilities were, that's how we would know.

13 Q. Who was the branch manager?

14 A. That was -- had been Sean, was Sean.

15 Q. But you said you didn't talk to Sean?

16 A. I did not directly.

17 Q. You did not directly, but you participated and agreed that
18 the move should take place and that these were the correct
19 units to move them to?

20 A. Yes.

21 Q. Right. So in essence, you made decisions based on the
22 information you were given, correct?

23 A. Correct.

24 Q. If the information was accurate, you made the correct
25 decision, correct?

K2jWsch2

Karen - Cross

1 A. If the information's accurate.

2 Q. And if the information is inaccurate, you made the wrong
3 decision, correct?

4 A. Could -- that's possible.

5 Q. OK. I'll take "that's possible."

6 And is it fair to say that these are subjective evaluations
7 of skill sets?

8 A. No. If somebody has no skill set to apply to a job, they
9 wouldn't be able to function, so it's not subjective. If they
10 don't have the skills, they can't do the job.

11 Q. Well, everybody in OSB has a base level of skill set,
12 right?

13 A. Yes, but not -- this is a very complicated business, lots
14 of narrow, technical areas, so you may have somebody that is
15 very good at doing one particular type of thing, but they have
16 no experience or exposure doing another type of thing. So --
17 and if you just move somebody over there, they -- if they don't
18 have any skill set in that area, they can't do the job and
19 they'd have to basically learn something new.

20 Q. Are you finished?

21 A. Yes.

22 Q. OK. So in determining these skill sets, your testimony --
23 I just want to make sure -- is you relied on Mike S., correct?

24 A. Yes.

25 Q. And Anthony, correct?

K2jWsch2

Karen - Cross

1 A. Yes.

2 Q. And you did not have any personal knowledge about the skill
3 set of Amol, correct?

4 A. Just at a high level.

5 Q. Right. And the same for Mr. Schulte, correct?

6 A. Correct, at a high level.

7 Q. Except that you knew that he couldn't make eye contact,
8 correct?

9 A. Correct.

10 MS. SHROFF: Now, let's go to the letter of warning.

11 Q. Did you draft the letter of warning?

12 A. I was one of the primary writers, yes.

13 Q. OK. And you testified that this is a serious step,
14 correct?

15 A. Correct.

16 Q. It is a serious thing to give to an employee of the CIA, or
17 for that matter, any employee, correct?

18 A. Correct.

19 Q. And you wanted to be accurate, correct?

20 A. Correct.

21 Q. You wanted the facts to be accurate, correct?

22 A. Correct.

23 Q. And you thought it was important for Mr. Schulte to know
24 that you had the facts correct, right?

25 A. Correct.

K2jWsch2

Karen - Cross

1 Q. Because you wanted to appear objective, correct?

2 A. Correct.

3 Q. You wanted him to believe you were giving him a fair shake,
4 correct?

5 A. We were trying to be as fair as we possibly could.

6 MS. SHROFF: OK. Well, let's start with the bottom of
7 page 1 of 2.

8 Q. Just take a minute and let me know when you're done reading
9 it. All right?

10 A. OK.

11 Q. Who wrote this line, "The ISB member did not implement a
12 privilege change at this time"?

13 A. I don't know -- I don't recall who wrote each specific
14 sentence in this letter.

15 Q. OK. Who verified that each specific sentence was accurate?

16 A. I would have had Anthony check.

17 Q. You had Anthony check?

18 A. I would --

19 Q. Is Anthony --

20 A. -- ask Anthony to go through, is this accurate.

21 Q. So Anthony had reviewed this letter of warning, correct?

22 A. Yes.

23 Q. He had told you it was accurate, correct?

24 A. Correct.

25 Q. Because obviously if he had told you it was inaccurate, you

K2jWsch2

Karen - Cross

1 would never have presented it to Mr. Schulte, correct?

2 A. Correct.

3 Q. And then you presented this to Mr. Schulte, correct?

4 A. Correct.

5 Q. Was Anthony at the meeting?

6 A. No.

7 Q. But he verified the facts in the memo, correct -- I mean in
8 the letter. It's a letter, correct?

9 A. Correct.

10 Q. OK. And you testified that you then scratched out "The ISB
11 team member did not implement a privilege change at this
12 point," correct?

13 A. Correct.

14 Q. Let me ask you something. When do you make this
15 scratch-out, after the meeting is finished or --

16 A. We did it in the meeting with Josh and our HR person and
17 Mike sitting in the room. I did it right as the meeting was
18 happening.

19 Q. OK. And it wasn't like you had a choice in doing this,
20 right?

21 A. A choice in scratching --

22 Q. Yes.

23 A. =This out?

24 Q. Yes.

25 A. I could have elected not to make that change.

K2jWsch2

Karen - Cross

1 Q. How?

2 A. I wouldn't have done it.

3 Q. How could you not change something that is wholly
4 inaccurate?

5 A. It's not wholly inaccurate.

6 Q. Really? Let me show you.

7 MS. SHROFF: Can I have an exhibit number for this?

8 Q. I'm just going to ask that you take a look at this
9 document. OK? It's 3511-45.

10 MS. SHROFF: Don't publish it yet.

11 I'm just going to mark it for now, your Honor --

12 THE COURT: All right.

13 MS. SHROFF: -- as Defense Exhibit I.

14 THE COURT: All right. Defense I. Defense I is
15 3511 --

16 MS. SHROFF: -- 45.

17 THE COURT: -- 45. OK.

18 MS. SHROFF: Your Honor, would this be a good time to
19 break? That way I could --

20 THE COURT: Let's finish this line of questioning, and
21 then we'll take our break.

22 MS. SHROFF: I need to admit this in, and I need a
23 break.

24 THE COURT: All right. We'll take our morning recess
25 now, ladies and gentlemen. We'll resume at quarter after.

K2jWsch2

Karen - Cross

1 (Jury not present)

2 THE WITNESS: What do I do with this?

3 THE COURT: You can step down.

4 THE WITNESS: Do I leave this here?

5 THE COURT: Just leave it there.

6 See you at 11:15.

7 (Recess)

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K2J3SCH3

(In open court; jury not present)

THE COURT: Yesterday, I reviewed the letter from the government of February 17 dealing with Michael, and I asked that the author of the CIA memorandum, which was attached to the memo of February 12, that the author be identified and his name be produced to the defendant.

I also received last night the files, the security file and the investigative file, some 270 pages of materials. I've read the files last night, and I direct that the security file doesn't have to be produced, but the investigative file should be produced to the defendant.

MR. LAROCHE: Yes, your Honor.

THE COURT: Yes?

MR. LAROCHE: I just said yes, your Honor.

THE COURT: Thank you. Is Karen available?

MR. LAROCHE: Yes, your Honor.

THE COURT: Okay, David.

(Continued on next page)

K2J3SCH3

Karen - Cross

1 (Jury present)

2 THE COURT: Ms. Shroff.

3 MS. SHROFF: Thank you, your Honor.

4 BY MS. SHROFF:

5 Q. So when we broke you said -- and correct me if I'm wrong --
6 that you didn't have to cross that line out, correct?

7 A. Correct, I didn't have to.

8 Q. And I said why not. It does not seem to be truthful or
9 accurate. Correct?

10 A. I didn't hear you -- I don't recall you saying that.

11 Q. Okay. I'm saying it now. That statement, "The ISB team
12 member did not implement a privilege change at this point." It
13 was incorrect, correct?

14 A. That was what Josh told us in the meeting.

15 Q. Well, he didn't just tell you that in a meeting, he then
16 told you that in an e-mail, correct?

17 A. The e-mail that you provided me just now? Yes.

18 Q. So let's take a look at that e-mail, if we can pull that up
19 from bottom up. Could you read that for me.

20 A. "Could a Stash admin grant me admin privileges for the
21 project Brutal Kangaroo. I seem to have lost access to this
22 project."

23 Q. Who is it sent to?

24 A. It was sent to the ISB, which is the folks that did our
25 support or IT support.

K2J3SCH3

Karen - Cross

1 Q. They did more than IT support, right? They did more than
2 IT support, correct?

3 A. Well, they managed the system.

4 Q. Right. They managed access, correct?

5 A. Correct.

6 Q. Okay. So he's sending it to everyone in ISB, correct?

7 A. Yes.

8 Q. He's not sending it to one special friend that's going to
9 backdoor access to him, correct?

10 A. Correct.

11 Q. Okay. And it's sent on which e-mail? I don't know how
12 many e-mail systems CIA has.

13 A. This is our primary e-mail system.

14 Q. So it's not anything nefarious, no gmail, no backdoor
15 throwaway e-mail, correct?

16 A. Correct.

17 Q. Okay. And what is the response?

18 A. He received a response from David.

19 Q. Uh-huh.

20 A. That said "completed."

21 Q. Okay. And let's just move up. And now he sends the
22 e-mail -- by "him" I mean Mr. Schulte, correct?

23 A. Correct.

24 Q. He sends it to you. Correct?

25 A. Correct.

K2J3SCH3

Karen - Cross

1 Q. Mike S., correct?

2 A. Yes.

3 Q. Susan?

4 A. Yes.

5 Q. And he says -- read it for us, would you.

6 A. He says, "Here is proof that I didn't deliberately talk to
7 a separate ISB member after initially being refused access to
8 the BK tool."

9 You want me to keep going?

10 "I sent ISB the request on 5/26 at 12:39 p.m., Dave
11 promptly responded at 1:04 p.m. saying he had completed the
12 action... then Tim responded at 1:15 p.m. requested branch
13 chief approval, at which point I had already been given access
14 to BK."

15 Q. Does he leave out anybody on the cc that was in the
16 meeting?

17 A. That was in the -- which meeting?

18 Q. In your letter of warning meeting.

19 A. I think that was who was in the room, yes.

20 Q. He includes everyone, right?

21 A. I think so, yes.

22 Q. If we can just move up on that e-mail chain. And who sends
23 you an e-mail now?

24 A. Anthony sent an e-mail to -- oh. No. Mike sent an e-mail
25 to Anthony.

K2J3SCH3

Karen - Cross

1 Q. Okay. And Mike is who?

2 A. Mike is my deputy.

3 Q. Right. That's Mike S., right?

4 A. Correct.

5 Q. There's a lot of Mikes floating around.

6 A. Mike is my deputy, correct.

7 Q. And he says what?

8 A. He says, "Hmm. This does indicate that what he is saying
9 is true."

10 Q. Okay. So that's your deputy. You rely on your deputy,
11 correct?

12 A. Correct.

13 Q. He is an honorable man, right, according to you?

14 A. Correct.

15 Q. Wouldn't get something wrong, correct?

16 A. He would be -- he would work very hard not to get anything
17 wrong.

18 Q. Right. And so, going back to the letter of warning.

19 A. Yes?

20 Q. Tell me, what choice did you have in canceling that line?

21 A. Can you go -- what's the date on the letter of warning?

22 Q. What is the date?

23 A. Yes.

24 Q. 6/22/2016. Take a look at the back of -- if you flip the
25 page over. There you go.

K2J3SCH3

Karen - Cross

1 A. 6/22/2016. Okay. With that -- the discussion that we had
2 in the room, and getting that clarification, the right thing to
3 do was to edit the document.

4 Q. That's not what I asked. I asked you what choice did you
5 have in taking that out. It was factually wrong, correct?

6 A. Yes.

7 Q. It was inaccurate, correct?

8 A. Correct.

9 Q. There was no reason that you had to not scratch it out.

10 A. Correct.

11 Q. It wasn't to placate Mr. Schulte, correct?

12 A. It was to get the facts correct.

13 Q. Right. In fact, it had nothing to do, as you told
14 Mr. Denton on direct, to try to be moderate, correct?

15 A. That's not correct.

16 Q. Really?

17 A. It was trying to listen and make sure that I took all that
18 feedback and input, and get his facts straight.

19 Q. Feedback?

20 A. That's part -- yes. His comments, I listened to them, and
21 took it and made those edits.

22 Q. Do you consider somebody correcting a factually inaccurate
23 statement a comment?

24 THE COURT: Was that a question?

25 MS. SHROFF: Yes.

K2J3SCH3

Karen - Cross

1 THE COURT: Okay. Do your best to answer.

2 A. Yes, it is a comment.

3 Q. It is a comment according to you. This is a letter of
4 warning, correct?

5 A. Correct.

6 Q. You are going to put it in someone's personnel file,
7 correct?

8 A. Correct.

9 Q. It is going to remain there for a year, correct?

10 A. Correct.

11 Q. It's going to have repercussions for him, correct?

12 A. If there is no further problems, it would just take -- come
13 out of his file and that would be the end of it.

14 Q. No. For a year there would be a repercussion of having a
15 letter in his file, correct?

16 A. Correct.

17 Q. A person gets a letter of warning might quit their job,
18 correct?

19 A. I can't make that conclusion.

20 Q. I said "could."

21 A. It's possible.

22 Q. A person who gets that letter of warning could get
23 depressed, correct?

24 A. It's possible.

25 Q. Right. So, a factual inaccuracy, according to you, is

K2J3SCH3

Karen - Cross

1 simply a comment. Is that your testimony?

2 A. Yes.

3 Q. Okay. Let's keep going. The next sentence that you
4 changed on the same day, "You subsequently repeated the request
5 for administrative privileges to Brutal Kangaroo, this time in
6 person to a different ISB team member, and the change was
7 made."

8 Is that Mr. Schulte just commenting to you that, hey,
9 my comment is, like, you know, this is wrong?

10 A. His comment was that it was wrong, so I took action and
11 modified the paragraph.

12 Q. And your position is that that's merely a comment, correct?

13 A. I'm not sure -- of your use of the word, but he's made a
14 statement, I acted on his statement.

15 Q. Well, he didn't just make a statement. He came to the
16 meeting, correct?

17 A. Correct.

18 Q. He told you you were wrong, correct?

19 A. Correct.

20 Q. He told you that something was factually inaccurate in the
21 letter of warning, correct?

22 A. Correct.

23 Q. Then he went back to his desk, correct?

24 A. I don't know what he did after he left the room.

25 Q. Well, you do know at some point he fished out the e-mail

K2J3SCH3

Karen - Cross

1 and sent it to all of you to make sure you knew that he had
2 taken the issue seriously, correct?

3 A. Yes, he provided this information after the meeting.

4 Q. Right. And it was obviously, if he provided the
5 information to you, it was more than merely a comment, correct?

6 A. It was still -- it was a comment. It was a statement he
7 made.

8 Q. Okay. Let's turn to paragraph 4. You see the two
9 asterisks that you testified to before?

10 A. There is one on paragraph 4. Yes.

11 Q. Right, and one on paragraph 6, correct?

12 A. Yes.

13 Q. Right. And you testified, and I won't belabor this, that a
14 letter of warning is a serious document, right?

15 A. Yes.

16 Q. Did you write down why Mr. Schulte believed those
17 statements to be inaccurate?

18 A. Can we go to the bottom of the document?

19 Q. Sure.

20 A. No.

21 MS. SHROFF: You can take that down.

22 Q. You testified on direct that you disagreed -- you know
23 what. I withdraw that.

24 Let me ask you this: You spoke to the FBI about this
25 case, correct?

K2J3SCH3

Karen - Cross

1 A. Yes.

2 Q. Right. And were you ever told that the lawyers from
3 Mr. Schulte's team wanted to speak with you?

4 A. Yes. Much later.

5 Q. Okay. And much later, did you say, yes, I will talk to
6 them, or no, I don't want to talk to them?

7 A. I said no, I don't want to talk to them.

8 Q. But you talked to the FBI, correct?

9 A. I did.

10 Q. And as part of your conversations with the FBI -- did they
11 take place at the CIA offices, by the way?

12 A. The meetings with the FBI? Yes.

13 Q. When you talked to the FBI, you discussed with them the
14 facts of this case, correct?

15 A. I told them everything that I knew.

16 Q. Right. And they asked you questions about Mr. Schulte,
17 correct?

18 A. Correct.

19 Q. And there were some questions that you could not answer,
20 correct?

21 A. I don't recall, but that's probably true.

22 Q. And you directed them, did you not, and I can show you the
23 302 if you want, 3510-01.

24 MR. DENTON: Is there a question?

25 THE COURT: We'll building to it.

K2J3SCH3

Karen - Cross

1 Q. You told them, did you not, in response to certain
2 questions that they had, that you couldn't answer them but that
3 maybe Anthony could. Correct?

4 A. I don't recall the specifics that you're referring to, but
5 that's possible.

6 Q. Let me see if I can refresh your recollection.

7 MS. SHROFF: 3510-01.

8 THE COURT: Thank you.

9 Q. If you could just take a look at the last page, that might
10 be quicker.

11 A. Okay.

12 Q. Okay? You recommended a whole slew of people that the FBI
13 could talk to, correct?

14 A. Where are you?

15 Q. The third paragraph from the bottom.

16 A. Yes.

17 Q. Okay. And you suggested that they talk to Liz, correct?

18 A. Correct.

19 Q. And Anthony, correct?

20 A. Correct.

21 Q. And Sean F., correct?

22 A. Correct.

23 Q. And Mr. Weber, correct?

24 A. Correct.

25 Q. And to the FBI, you only described Mr. Weber, correct?

K2J3SCH3

Karen - Cross

1 A. Only described Mr. Weber?

2 Q. Right.

3 A. I don't recall.

4 Q. It's right there. Take a look if the next line refreshes
5 your recollection.

6 A. Okay.

7 Q. You didn't describe the positives of Liz, correct?

8 A. I did not discuss the managers, no.

9 Q. You did not discuss Anthony, correct?

10 A. Correct.

11 Q. And you did not discuss Sean F., correct?

12 A. Correct.

13 Q. But you did discuss Mr. Weber, correct?

14 A. Correct.

15 Q. And you described him as very strong technically -- not
16 "very," I take that back.

17 You said strong technically, correct?

18 A. Hmm-hmm.

19 Q. You described him as very mature, correct?

20 A. Correct.

21 Q. Then you said, and could provide the FBI with a good optic,
22 correct?

23 A. I don't remember the choice of words, but that's accurate.

24 Q. Okay. And by good optic, what did you mean?

25 A. Again, I don't remember the specific choice of words, but

K2J3SCH3

Karen - Cross

1 my -- I knew that Jeremy had been working on the accesses and
2 setting up a lot of the control base and the structure of how
3 we were managing the code libraries, so he was hands on and
4 down in the details in a way that the management chain would
5 not be.

6 Q. Management chain? You're saying that Sean F. would not be
7 involved in an issue about access?

8 Isn't access the most important thing for the CIA?

9 A. He would certainly be involved.

10 Q. Right. And he would be hands on because he is the
11 immediate boss, correct?

12 A. He would not have the same amount of time in the actual
13 code on the computer that Jeremy would have.

14 Q. He is the supervisor of Jeremy, correct?

15 A. Correct.

16 Q. He is the person in management, correct?

17 A. Correct.

18 Q. Mr. Weber is certainly not management, correct?

19 A. Correct.

20 Q. And you would want management involved in an issue of
21 access, correct?

22 A. I would --

23 Q. Correct?

24 A. Yes.

25 Q. Okay. Now let me direct your attention to January 13.

K2J3SCH3

Karen - Cross

1 This is a little bit more recent for you.

2 A. January 13?

3 Q. 2020.

4 A. Okay.

5 Q. Did you recall meeting with the FBI then?

6 A. They were in the room, yes, I think.

7 Q. Do you recall telling them about Mr. Weber again, that in
8 your opinion, Mr. Weber was one of the go-to guys in OSB;
9 that's your opinion, correct?

10 A. I don't recall the statement at that time. But, that is
11 something I would say.

12 Q. Okay. And you told that to the FBI, correct?

13 A. Like I said, I don't recall that exact statement.

14 Q. And do you recall singling Mr. Weber out as the only other
15 employee about whom you spoke positively?

16 A. I don't recall that.

17 Q. Do you recall telling the FBI that you considered Mr. Weber
18 to be a proactive employee, correct?

19 A. I have used those words to describe him in the past.

20 Q. Right. And he certainly was one of the people on your TAC
21 team, correct?

22 A. Yes.

23 Q. Right. And you told the FBI that you considered him one of
24 the go-to people in OSB, correct?

25 A. That's true.

K2J3SCH3

Karen - Cross

1 Q. Right. That's your opinion, correct?

2 A. Correct.

3 Q. Right. And isn't it fair to say that in describing or
4 talking about the developers, the only developer you singled
5 out to the FBI was Mr. Weber, correct?

6 A. I don't recall.

7 Q. Okay. Well, let me show you 3510-11.

8 (Pause)

9 A. Okay.

10 Q. Does that refresh your recollection at all?

11 A. Yes.

12 Q. Okay. And I'm correct, right? He's the only one whose
13 praise you sing to the FBI, correct?

14 A. He's the only officer mentioned here.

15 Q. And he's mentioned in a positive way, correct?

16 A. Correct.

17 Q. You describe him as I alluded to before, correct?

18 A. Correct.

19 Q. You can put that aside if you want.

20 Now, I'm not going to spend a lot of time on this. Do you
21 remember with Mr. Denton talking about desk moves?

22 A. Yes.

23 Q. Right. You said there was no such thing as an intern desk
24 at the CIA?

25 A. Correct.

K2J3SCH3

Karen - Cross

1 Q. There are desks on which interns are seated, correct?

2 A. We have summer students.

3 Q. Right.

4 A. That will, when they're there for the summer, will sit in a
5 desk.

6 Q. Right. And that's generally what they refer to as the
7 intern desk, right?

8 A. Well, there's no specific desk for that purpose.

9 Q. Of course not. True that. But the question is when an
10 intern sits at a desk in an office, you would generally call
11 that the intern desk, right?

12 A. When they're sitting there.

13 Q. Only when they're sitting there?

14 A. Another time an officer can use that as their desk.

15 Q. But you just don't know, right?

16 A. Don't know what?

17 Q. That that's what happens. You don't know if the intern
18 desk is used or not used or left empty, correct?

19 A. Any particular desk could be used for any officer or any
20 summer student.

21 Q. Okay. Now, do you know at the time that when Mr. Schulte
22 was moved to that desk, people who walked by said to him, "Hey,
23 heard you got demoted to be an intern sitting on the intern
24 desk." Did anybody tell you that?

25 A. No.

K2J3SCH3

Karen - Cross

1 Q. Okay. By the way, you talked about the timetable for the
2 move, correct?

3 A. Which timetable? For which move?

4 Q. For moving desks, right? You were shown all of those
5 e-mails of Mr. Schulte asking for his desk move situation to be
6 put in writing, correct?

7 A. Yes.

8 Q. And you then sent out an e-mail or somebody sent out an
9 e-mail, I've forgotten who, saying these are the official desk
10 moves, correct?

11 A. Yes.

12 Q. Before that e-mail was sent out, did anyone tell you that
13 there had been a confusion as to when Mr. Schulte was supposed
14 to be moved?

15 A. No. I don't recall that.

16 Q. Do you recall at all finding out that on the dates of the
17 move, or the purported move, Mr. Sean F. was in and out of the
18 office? Do you recall that?

19 A. No, I don't recall that.

20 Q. Do you recall being told that Sean F. had told Mr. Schulte
21 that he had to move, but that he had left the timetable open?
22 Do you recall that?

23 A. I don't recall that.

24 Q. Did Mr. Weber not tell you that?

25 A. I don't remember speaking with Mr. Weber about desk moves.

K2J3SCH3

Karen - Cross

1 Q. Okay. And do you recall knowing or learning at any point
2 that because Mr. Sean F. had not set a date for Mr. Schulte,
3 there was no rush to move?

4 A. I remember that they were told to move. I don't remember a
5 discussion on the timetable.

6 Q. Right. And everybody knew he didn't want to move anyway,
7 right?

8 A. I did not know that firsthand.

9 Q. You didn't know that firsthand, that he didn't want to move
10 out of OSB? I mean, you didn't know that?

11 A. This move was not out of OSB. Which move are we talking
12 about?

13 Q. I'll get to the OSB move first. Let's just talk about the
14 separation of the desks.

15 You never heard that he didn't want to move desks?

16 A. I eventually did, yes.

17 Q. You eventually heard, right?

18 A. Yes.

19 Q. He didn't want to move, correct?

20 A. That was my understanding yes.

21 Q. He felt he had lodged a complaint, correct?

22 A. Thought he had lost what?

23 Q. Lodged a complaint, correct? He had complained, correct?

24 A. Complained about Amol? Is that what you are talking about?

25 Q. Yes.

K2J3SCH3

Karen - Cross

1 A. Yes.

2 Q. Right. And he didn't want to move because he thought he
3 was in the right, correct?

4 A. That was my understanding.

5 Q. Right. And he told people that I don't want to move,
6 correct?

7 A. That was my understanding.

8 Q. Right. And then he said -- do you know if he was even told
9 a date by which to move?

10 A. I do not recall.

11 Q. Okay. And did there come a time eventually when there was
12 an e-mail sent about the move?

13 A. Yes, yes.

14 Q. And why was that e-mail sent, by the way?

15 A. Because the move -- the moves needed to happen. They
16 hadn't been done. We needed to make sure they were done.

17 Q. Okay. And tell me, is there something wrong with somebody
18 asking you to put a move in an e-mail?

19 A. No. There's nothing wrong.

20 Q. There's nothing wrong. You want to do something official
21 to me in a job, put it in writing. Nothing odd about that,
22 right?

23 A. Correct.

24 Q. Even if you'd never seen that before in your career, it was
25 still fine to ask somebody to put something in writing.

K2J3SCH3

Karen - Cross

1 A. It was unusual, but fine.

2 Q. What's so unusual about asking someone to send you an
3 e-mail confirming something that is being done to you?

4 A. Usually it doesn't take an e-mail to have somebody move
5 their desk.

6 Q. Well, that's not what he was saying, right? He wasn't
7 saying that is the only way he could move the desk. He wanted
8 something in writing, correct?

9 A. Right.

10 Q. Right. What's so unusual about that? That's what I'm
11 asking you.

12 A. Just doesn't happen very often. But he asked for it, so an
13 e-mail was sent.

14 Q. Right. But the e-mail was only sent after there was a
15 consensus amongst all of you that that was highly unusual,
16 correct?

17 A. I don't recall the specific conversation.

18 Q. Okay. Is it fair to say that after you learned of the
19 WikiLeaks leak, you did not engage with anyone at OSB, correct?

20 A. Correct.

21 Q. You didn't reach out to anyone, correct?

22 A. Correct.

23 Q. You were out of town at that time, correct?

24 A. I was out of town when the news hit.

25 Q. Right.

K2J3SCH3

Karen - Redirect

1 A. Correct.

2 Q. Right. And then you just waited until somebody contacted
3 you, correct?

4 A. Correct.

5 MS. SHROFF: I have nothing further.

6 THE COURT: Mr. Denton.

7 MR. DENTON: Just very briefly, your Honor.

8 REDIRECT EXAMINATION

9 BY MR. DENTON:

10 Q. Ma'am, do you remember Ms. Shroff asking you some questions
11 about a physical fight you learned about in the office?

12 A. Yes.

13 Q. You said something about learning about it while TMU had an
14 investigation ongoing; is that right?

15 A. Correct.

16 Q. Why was it significant that TMU had an investigation
17 ongoing?

18 A. Well, one, it's -- I never had an incident that involved
19 TMU in my career. So it was -- it was a first time I had
20 encountered it or anybody in my management team had
21 encountered. It's very serious. It's, like I said, one of the
22 more extreme actions. And there are rules about how to engage
23 or not to engage at that time.

24 So, we were doing our best to the figure out and how
25 to handle all that.

K2J3SCH3

Karen - Redirect

1 Q. Does TMU investigate concerns about physical violence with
2 respect to employees?

3 A. Yes, that's one of the things they look at.

4 Q. Would that include a fight in the office?

5 A. Yes, it would.

6 Q. Did you learn about the fight from the unit that
7 investigates that kind of thing?

8 A. No. I don't recall learning it from them. I heard about
9 it as the management team was relaying information to me about
10 that.

11 Q. Do you remember Ms. Shroff asked you some questions about
12 things like software licenses expiring and things like that?

13 Do you remember there was a whole series of questions?

14 A. Yes.

15 Q. Did the defendant ever e-mail you about issues like that?

16 A. I don't recall ever seeing an e-mail to me from Josh
17 regarding anything like that.

18 Q. What about a phone call; did he ever call you to raise
19 those kinds of issues?

20 A. No.

21 Q. Ever swing by your office to talk about them?

22 A. No.

23 Q. Ever raise a security concern with you in any form
24 whatsoever?

25 A. No.

K2J3SCH3

Karen - Redirect

1 Q. I think you testified also about the access changes that
2 were part of this whole process; is that right?

3 A. Correct.

4 Q. Were those a security concern?

5 A. Yes.

6 Q. When you learned about that security concern, did you take
7 steps to increase security?

8 A. Yes. We talked with -- I talked with my deputy, with the
9 acting division chief, Anthony, and we said, look, we need to
10 really take an assessment of what the situation is, and figure
11 out what we should do in order to make sure things are
12 tightened up and as controlled as we could make them.

13 Q. Is it fair to say you try to address security concerns when
14 they're raised to you?

15 A. Yes, that would be accurate.

16 MR. DENTON: Ms. Hurst, can we put up Government
17 Exhibit 1094 for a moment, please.

18 Q. Do you remember Ms. Shroff asked you a whole series of
19 questions about this here?

20 A. Yes.

21 Q. And the changes that you made at the bottom; is that right?

22 A. Yes.

23 Q. Was the only issue related to this the fact that the
24 defendant had requested access to the project?

25 A. It's -- the policy and the approach for requesting access,

K2J3SCH3

Karen - Redirect

1 and the approvals that needed to happen, if things were -- as I
2 understood them a little bit out of order. And plus, we had
3 already, you know, talked about this so much that, yes, it was
4 not consistent with what the directions had been.

5 MR. DENTON: So, if we can look at the next page,
6 Ms. Hurst, and put up paragraph 4.

7 Q. Do you remember Ms. Shroff blowing this paragraph up for
8 you?

9 A. Yes.

10 Q. And she asked you some questions about it?

11 A. Yes.

12 Q. And do you see where it describes "You revoked the
13 administrative privileges of the EDG/AED/OSB officer assigned
14 responsibility for Brutal Kangaroo"?

15 A. Right.

16 Q. Do you remember Ms. Shroff showed you some e-mails that the
17 defendant had forwarded you?

18 A. Hmm-hmm.

19 Q. Did he ever show you an e-mail showing he was authorized to
20 do that?

21 A. Not to my knowledge or recollection.

22 Q. Is it a problem when one person revokes administrative
23 privileges for another officer?

24 A. Yes, if they don't have management direction to do so.

25 MR. DENTON: No further questions, your Honor.

K2J3SCH3

Roche - Direct

1 THE COURT: You are excused. Thank you.

2 (Witness excused)

3 THE COURT: Call the next witness.

4 MR. DENTON: The government calls Sean Roche, your
5 Honor.

6 THE DEPUTY CLERK: Please state your name for the
7 record.

8 THE WITNESS: Sean Roche.

9 THE DEPUTY CLERK: Witness sworn.

10 THE COURT: Please sit down, Mr. Roche. All right
11 Mr. Denton.

12 MR. DENTON: Thank you, your Honor.

13 SEAN ROCHE,

14 called as a witness by the Government,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DENTON:

18 Q. Good morning, sir.

19 A. Good morning.

20 Q. Are you currently employed?

21 A. I'm currently an independent contractor who advises,
22 consults, and does public speaking.

23 Q. About how long have you been doing that?

24 A. Since 31 October of 2019.

25 Q. Where did you work before that?

K2J3SCH3

Roche - Direct

1 A. I worked at the Central Intelligence Agency.

2 Q. How long did you work for the Central Intelligence Agency?

3 A. More than 26 years.

4 Q. Generally speaking, did you work in any particular field or
5 specialty during your time at the CIA?

6 A. Yes. I worked in the fields of project program management,
7 and leadership of organizations that built collection systems
8 for covert and clandestine collection.

9 Q. Can you tell us some of the positions that you've held
10 during your career at the CIA.

11 A. Yes. I was a division director, large program manager,
12 group manager managing an entire mission area, and then a
13 deputy office director that managed multiple missionaries, then
14 an office director, and then the deputy director of the
15 Directorate of Science and Technology, and then the deputy
16 director of the Directorate for Digital Innovation.

17 Q. What is the Directorate for Digital Innovation?

18 A. Directorate of Digital Innovation is one of five
19 directorates at the CIA. It is composed of the Center for
20 Cyber Intelligence, that conducts cyber operations and cyber
21 intelligence gathering missions across the world. It is
22 responsible for CIA's worldwide secure communications, and IT
23 infrastructure -- information technology infrastructure that's
24 responsible for all of the open source collection worldwide,
25 and the curation of agency data.

K2J3SCH3

Roche - Direct

1 Q. When was the Directorate of Digital Innovation created?

2 A. It was announced on March 6 of 2015, and started to stand
3 up about two to three weeks later, and was formally open for
4 business on one October of 2019.

5 Q. Is that sometimes referred to as DDI?

6 A. Yes.

7 Q. Were you part of the process of standing up the Directorate
8 of Digital Innovation?

9 A. Yes, I was.

10 Q. Why was it created?

11 A. It was created to accelerate the agency's ability to bring
12 digital technologies into the agency, incorporate them into the
13 missions, to inform HUMINT operations, and as well as all sorts
14 analysis and covert action.

15 It was also brought in, it was also created to ensure
16 that the agency was aware of the challenges associated with
17 these digital technologies, to ensure that our operations were
18 secure.

19 Q. You referred to HUMINT operations. What is HUMINT?

20 A. Human intelligence operations are conducted by the agency
21 where officers from the agency overseas have contact with
22 foreign nationals to get information from them, to inform our
23 national security.

24 Q. What was your role in the creation of DDI?

25 A. I was appointed the first deputy director of the new

K2J3SCH3

Roche - Direct

1 directorate.

2 Q. Was that your position in the spring of 2016?

3 A. Yes.

4 Q. In your capacity as the deputy director of DDI, did you
5 have occasion to interact with line officers within the
6 directorate?

7 A. On a constant basis.

8 Q. Tell us about that level of interaction.

9 A. I had the opportunity to speak to every incoming class of
10 new officers across the CIA for many years while I was in DDI.
11 We had forums in DDI, informal forum. One was called
12 "breakfast with the bosses" where officers went by to sit down
13 with supervisors for two to three hours, and the supervisors
14 would bring breakfast, and they would talk to us about what
15 their experience was.

16 I had a program personally that I was recognized for
17 to take the newest officers we had on trips, whether they were
18 domestic or overseas, we called these ride alongs. And I spent
19 a considerable amount of time in the field at some of our most
20 remote locations talking to officers about what we needed to do
21 for them and what their experience was at CIA.

22 Q. So, sir, I'd like to ask you to look around the courtroom
23 and tell us if you recognize anyone who was a line officer in
24 the Directorate of Digital Innovation in the spring of 2016.

25 A. Yes, I do.

K2J3SCH3

Roche - Direct

1 Q. Who do you recognize?

2 A. I recognize a gentleman sitting at the back table with the
3 beard, Mr. Schulte.

4 Q. Have you met personally with the defendant?

5 A. Yes, I have.

6 Q. So, just before we get to that, on a day-to-day basis, what
7 was your duties and responsibilities as the deputy director of
8 DDI?

9 A. The type of responsibilities were resource allocation, and
10 that was personnel and budgets. A lot of time spent designing
11 a new culture for a new directorate, working to design a new
12 pay system, a new recruiting system, a new promotion system.
13 All for these digital specialties that we needed.

14 I would attend meetings at the White House frequently,
15 they were known as Deputies Councils. They were held in the
16 West Wing.

17 I would have frequent meetings with the leadership of
18 the agency, particularly the executive director, who is the
19 number three officer at the agency.

20 Q. You mentioned the number three officer in the agency. As
21 the deputy director of DDI, help orient us, where were you in
22 the hierarchy of the agency?

23 A. There is the director, the deputy director, the executive
24 director is number three. The director chief, my boss is the
25 director chief, Andrew Hallman, and myself were both basically

K2J3SCH3

Roche - Direct

1 reporting to the executive director. It was the executive
2 director that determined what our ratings were for the year,
3 our performance, whether or not we changed jobs or advanced,
4 etc.

5 Q. Did there come a time when you received an e-mail from the
6 defendant?

7 A. Yes.

8 Q. Had you had any interaction with him that you can recall
9 prior to that?

10 A. Not that I can recall.

11 MR. DENTON: Ms. Hurst, can we put up Government
12 Exhibit 1093, please. If we can just blow up the addressing
13 information, please.

14 Q. Do you recognize this, sir?

15 A. Yes, I do.

16 Q. Who sent it?

17 A. Joshua Schulte.

18 Q. Who did he send it to?

19 A. He sent it to my direct supervisor, Andrew Hallman who was
20 the director of DDI, the executive director of the agency,
21 Meroe Park, and myself.

22 Q. What is the subject line?

23 A. "Resignation over retaliatory management."

24 Q. Let's take a look at some parts of this e-mail, sir. If we
25 can blow up the first two paragraphs. Just before we talk

K2J3SCH3

Roche - Direct

1 about some of the things that are said here, do you see in the
2 middle where the black box is where the defendant refers to "my
3 group chief Karen"?

4 A. Yes.

5 Q. Do you know who that refers to?

6 A. Yes, I do.

7 Q. Have you worked with Karen at the CIA before?

8 A. For more than 15 years.

9 Q. What is Karen like as a manager?

10 A. Karen is one of the most soft spoken, polite, congenial,
11 agreeable people that I've ever worked with at senior levels.

12 Q. Would it surprise you to learn that someone had incurred
13 her wrath as described here?

14 A. Yes, very much. I can't imagine Karen having wrath.

15 Q. You see at the start of that paragraph, sir, where it says,
16 "Unfortunately, in 3/2016, an employee threatened to kill me
17 which resulted in my subsequent report to security and
18 escalation to TMU."

19 A. Yes, I do.

20 Q. Would you describe that as a serious incident?

21 A. Very serious.

22 Q. Have you worked with TMU in the past?

23 A. Extensively.

24 Q. What does TMU stand for?

25 A. TMU is part of our security team. It's known as Threat

K2J3SCH3

Roche - Direct

1 Management Unit.

2 Q. What do they do?

3 A. They're called in any time we believe that there is any
4 possibility of an escalation that could lead to an employee
5 harming themselves, harming others, and they have expertise
6 working with other parts of the agency to immediately get on
7 the problem and do an assessment of what the situation is, and
8 they have authority to intervene and take necessary steps.

9 MR. DENTON: You can zoom out, Ms. Hurst. And if we
10 can go to the next page, and zoom in on the paragraph that
11 starts "the next week."

12 Q. Could you read that first sentence, sir.

13 A. "The next week I noticed my permissions as administrator
14 had been revoked entirely, and I was hit with a memorandum on
15 'self-granting previously revoked admin privileges on an agency
16 computer network,' which I have attached."

17 (Continued on next page)

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K2jWsch4

Roche - Direct

1 BY MR. DENTON:

2 Q. Did you review that memorandum that he had attached?

3 A. Yes.

4 Q. What was your reaction to it?

5 A. My reaction to it was that this was a very serious breach
6 of agency rules. In the post-Snowden environment, and that's
7 referring to Edward Snowden, a traitor who is now in Russia,
8 any officer taking an action like this on an agency computer
9 system was a very, very serious red flag.

10 Q. Now, going down to the bottom of this blown-up section, do
11 you see where it says, "Karen used her royal pawn Weber to
12 execute her will of removing me from the OSB libraries, not
13 inform me and wait for me to logically add my permissions back
14 to a project I thought was still mine"? Do you see that?

15 A. Yes, I do.

16 Q. In your work in DDI, are access to permissions to projects
17 important?

18 A. Yes, they are.

19 Q. Why are they important?

20 A. They're important because they are part of a system that's
21 known as need to know and compartmentalization, the idea being
22 that with all of the different activities across the agency,
23 you would only want access to the people you know needed that
24 information, first and foremost; and then have the right
25 disposition and -- and ability to protect that information.

K2jWsch4

Roche - Direct

1 MR. DENTON: If we could zoom out here, Ms. Hurst,
2 please. And if we could go to, I think it's the next page, and
3 zoom in on the bottom five or six lines of the full paragraph.
4 Sorry. Above that. No. Sorry. One more up.

5 Thank you.

6 Q. Now, I don't want to go through all of this, but do you see
7 at the bottom where, in the last full line, the line, "I feel
8 wronged and continually mistreated by the system"?

9 A. Yes.

10 Q. What was your reaction to that?

11 A. My reaction was that this was something that I needed to
12 get with this officer right away. It was very concerning.
13 This was, again, a very strong red flag. It was an officer
14 that was disgruntled, an officer that was angry, and -- and
15 this was something -- this was a very, very strong statement
16 that demanded a response.

17 MR. DENTON: If you can zoom out and go back to the
18 first page, Ms. Hurst.

19 Q. Just as a general matter, was it typical for you to receive
20 multipage emails from line officers in DDI?

21 A. No.

22 Q. As a general matter, what was your reaction to this email
23 as a whole?

24 A. My reaction, immediate reaction, was we have a problem. We
25 have an officer that is displaying, in a vitriolic message,

K2jWsch4

Roche - Direct

1 that, in my experience, contained a number of warning flags
2 that this officer was going to do something, and that this
3 officer was -- had a motivation that may include harming the
4 agency or harming agency personnel.

5 MR. DENTON: Ms. Hurst, if we could put up Government
6 Exhibit 1096, please, and just blow up the email at the top.

7 Q. Did you reply to the defendant's email, sir?

8 A. Yes. I replied in less than five minutes.

9 Q. And what did you say?

10 A. I said: "Josh, I spend hours a day on issues associated
11 with personnel. It's one of the most important obligations I
12 have to the agency. Would you like to come see me tonight --
13 about this tonight? I have a meeting with the director of the
14 CIA that will be over at 1745, and I will stay as long as it
15 takes. Please let me know if you would like to speak to me. I
16 certainly hope that you will. This is important, and it is now
17 the No. 1 issue on my plate. Very respectfully, Sean."

18 The note: "There are no cc's," that meaning copies, "or
19 bcc," blind copies, "on this message."

20 Q. When you say that this is now the No. 1 issue on your
21 plate, how many employees did you oversee in the directorate of
22 digital innovation?

23 A. The number of government employees was more than 3,000.

24 Q. Was the defendant's email something that you, in fact, took
25 seriously?

K2jWsch4

Roche - Direct

1 A. Very seriously.

2 Q. Was it something that you believed should be addressed?

3 A. Yes.

4 MR. DENTON: Ms. Hurst, if we could put up Government
5 Exhibit 1097.

6 Q. Were you the only person who replied to the defendant's
7 email, sir?

8 A. No. My boss, Andrew Hallman, replied before meeting the
9 next day.

10 Q. And what did he say?

11 A. He said: "Josh, just getting to my email, and to the
12 contrary, Sean and I spend most," italicized, "of our time on
13 personnel issues and I know Sean is in touch. I'll sit down
14 with him to discuss where we're at. Regards Andrew."

15 Q. Where he says that you and he spend most of your time on
16 personnel issues, was that true?

17 A. Absolutely.

18 Q. Why were personnel issues such a focus for you?

19 A. In the end, it is people that deliver the mission of the
20 agency, we ask people to do sometimes incredibly difficult,
21 always challenging and most often in a very compressed time
22 frame, and so spending time with the workforce, developing ways
23 for the workforce to maximize their creativity and their
24 ability to deliver a mission is the obligation that senior
25 managers have.

K2jWsch4

Roche - Direct

1 And as I mentioned, there's a number of things we were
2 working on as a new directorate to establish a culture for
3 digital innovation and to establish a culture that accelerated
4 digital capability. And there was an awful lot of work that
5 was being done. We were changing -- we changed people's pay.
6 We changed the way we hired people, how we paid them, how we
7 promoted them, how we moved them around, how we developed their
8 careers. So it was every day. It was the No. 1 thing we had
9 to work.

10 MR. DENTON: Ms. Hurst, if we could go back to 1096
11 for a moment and again just blow up the top email.

12 Q. Did the defendant take you up on your offer to meet with
13 him that day in response to his email?

14 A. No, he didn't.

15 Q. After you received this email, did you take any steps to
16 gather more information about what the defendant had claimed?

17 A. Yes. I reached out to my front-office team to get with the
18 human resources team to pull his agency biography. And in
19 parallel, I reached out to my direct reports in the CCI front
20 office. The first question I had, given the nature of the
21 email, and the tone, was tell me exactly where this person is.
22 Someone put eyes on him right now. Someone's very upset. What
23 actions is he taking, was he going to take?

24 The team looked into his status on the agency computer that
25 sent me this note and saw that he had logged off almost

K2jWsch4

Roche - Direct

1 immediately after sending it. I received communication back in
2 a short while later saying that people had confirmed he had
3 left the CCI building.

4 Q. Did there, in fact, come a time when you met with the
5 defendant to discuss the issues raised in his email?

6 A. Yes. I believe the date was 30 June, and it was in the
7 morning of 30 June at the CCI building.

8 Q. And during the couple of days intervening, did you take any
9 other steps with regard to the defendant?

10 A. Yes, I did. I asked my direct report at the CCI front
11 office to get background on what was happening with this
12 officer and had the officer, in fact, resigned -- was the
13 officer gone from the agency -- as we tried to arrange a time
14 to meet, and they gave me a briefing on several incidents of
15 concern, some of which are raised in the note that Mr. Schulte
16 sent me.

17 Q. Now, you say you were trying to arrange a meeting. Did he
18 ever actually respond to you?

19 A. No.

20 Q. How did the meeting get arranged?

21 A. I believe, to the best of recollection, the CCI
22 front-office team worked with my scheduling team to arrange a
23 time, and, from memory, what happened was I was supposed to be
24 on leave, annual leave. I was supposed to be on vacation. I
25 was headed overseas, but instead, we scheduled the meeting so

K2jWsch4

Roche - Direct

1 that I could meet with Mr. Schulte before I headed to the
2 airport to fly overseas.

3 Q. And was that a memorable meeting for you?

4 A. Yes, it was.

5 Q. Why was it memorable?

6 A. It was very memorable because I wanted to engage the
7 employee and find out had he, in fact, resigned; try and
8 de-escalate what I saw was a lot of anger and vitriol;
9 understand what was happening from his perspective, with just
10 him in the room and no one else, and go over some of these
11 points he had made and some of the issues that had arisen
12 during his time as an agency employee.

13 What I encountered was an employee that did not buy into
14 any part of any action that was his; that explained to me that
15 there were managers at all level that had conspired to deny him
16 the ability to work on what he wanted to work on; and that, he
17 explained to me that these people were terrible people; that
18 TMU had not done anything for him. And I found the meeting to
19 be extremely alerting, to the point where, afterwards, I spoke
20 to the deputy director of CCI and gave him some actions.

21 Q. Let's stay focused on the meeting for a moment. Did you
22 discuss issues pertaining to the defendant's report to TMU that
23 he wrote to you about?

24 A. Yes, I did.

25 Q. What did you talk about?

K2jWsch4

Roche - Direct

1 A. My recollection, the -- I had a discussion with him about
2 the TMU unit, which he described, his terms, he felt they were
3 not responsive to him. He felt that his life had been
4 threatened, and they just did -- didn't do enough for him.

5 I explained my experience, working with them over many
6 years, was that if they investigated and found a single shred
7 that indicated that there was behavior or someone who was going
8 to take an action against another officer, to harm them, even
9 threaten them, that they always took action in those cases.
10 And they took very prompt action and they had the authority to
11 do that. So I basically explained that my experience with TMU,
12 which was very extensive, did not match what he said to me,
13 which was basically, Hey, I had a real problem here and they
14 didn't do anything and they didn't care.

15 Q. I think you said you talked about the defendant saying that
16 multiple layers of management were conspiring against him. Is
17 that right?

18 A. Yes. And he mentioned some of the managers by name. I
19 knew and had worked with, sometimes for years, some of those
20 managers. And I explained to him -- Gee, that's not my
21 experience. I know these people. Why would they do this -- to
22 which he could not provide an answer.

23 I asked him about some of his behaviors. Did you do these
24 things? Did you change permissions? Did you -- there was a
25 thumb-drive incident, and he didn't have an explanation nor

K2jWsch4

Roche - Direct

1 really acknowledge that he had done them.

2 Q. What did you mean when you say you asked him about
3 permissions?

4 A. On the system that he was working on, an agency network,
5 his -- he had -- his permissions had been changed, and when his
6 management explained to him, he went back in and changed his
7 permissions back to get access again, and they had issued a
8 letter of warning to him explaining how serious that was and
9 that that behavior is not acceptable.

10 Q. Why was that something you discussed with him?

11 A. Because of how serious the nature of that is. Activity on
12 any system that holds agency data, agency tools, things that we
13 call sources and methods, is -- is -- it is very, very
14 important that we not have a doubt about what people have
15 access to and maintain the integrity and the protection of that
16 information.

17 Q. What did you discuss with him about his permission changes?

18 A. I said to him something to the effect of in the post-Edward
19 Snowden era, you don't do something like that. That's going to
20 draw attention that you certainly don't want. It's really
21 serious, and you cannot be taking that kind of action.

22 Q. And how did he respond?

23 A. He talked a little bit about the project that he had been
24 working on and some new work that he had been given, and he was
25 not pleased with it. But at one point, he stopped and he

K2jWsch4

Roche - Direct

1 looked at me and said, You know, I could get back on it if I
2 wanted to, something to -- that's not -- I won't say that's the
3 exact quote, but it's pretty darn close.

4 Q. Now, when he said that, did you understand him to be
5 raising a security concern about the network?

6 A. No. What I, what I realized -- it was a striking comment
7 because, to me, it illustrated that after everything that had
8 happened, all the warnings, all of this formal process, that he
9 was determined to undermine the controls on the network.

10 Q. As a general matter, what was the defendant's demeanor like
11 during your meeting with him?

12 A. His demeanor was reasonable. He -- he -- we had what I'd
13 call a level-set conversation. I made some suggestions about
14 trying to work another place at the agency. He expressed great
15 frustration with every level of management.

16 I talked about first-level managers and how they struggle
17 to sometimes learn what it is to manage, but what I didn't see
18 was, is there -- he asked about his chance for promotion. He
19 said, Would this affect my chance for promotion? I said yes,
20 most likely, although I told him -- I informed him, I don't
21 make your promotion decision. A panel, a panel by CCI, would
22 do that.

23 Q. Why did you think this would affect his chances for
24 promotion?

25 A. Because key criteria for promotion is judgment, judgment

K2jWsch4

Roche - Direct

1 ability to follow the agency rules and follow the directives we
2 have to protect the mission. That's an inviolate part of being
3 promoted, is having that judgment. And he had demonstrated a
4 very poor judgment at the minimum.

5 Q. Again, stepping back, just at a general level, what was
6 your reaction to the defendant?

7 A. So, my reaction was that we -- I had to ensure -- I saw a
8 lot of risk. I saw a lot of risk at a lot of levels and a lot
9 of different possibilities that had to be mitigated and
10 addressed accurately. It's my job to get in front of that risk
11 and try and understand and then mitigate it. I took -- met
12 immediately afterwards with the deputy director of CCI and said
13 I believe you have somebody here who is going to do something
14 on the networks or is determined to do something to get back at
15 people or get back at the system. And I said he needs to be
16 monitored very, very closely. And the deputy director of CCI
17 said, We're on it. We're -- exact quote, We're all over it.

18 Q. After that meeting, did you have any further interactions
19 with the defendant?

20 A. Not that I can ever recall, no.

21 Q. I'd like to go forward in time, sir, and ask you to think
22 about March 7, 2017. Do you remember that day?

23 A. Very well.

24 Q. Why do you remember that day very well?

25 A. I received a frantic call from the director of CCI, who was

K2jWsch4

Roche - Direct

1 out of breath, and said something very big has happened.

2 Our -- our information is out in the public on WikiLeaks.

3 We're going to have to get over there and -- and get your full

4 brief. And the day very quickly -- and this happened in the

5 morning. It was the equivalent of a digital Pearl Harbor.

6 Q. What do you mean by that?

7 A. Our capabilities were revealed, and hence, we were not able

8 to operate and our -- the capabilities we had been developing

9 for years that were now described in public were decimated.

10 Our operations were immediately at risk, and we began

11 terminating operations; that is, operations that were enabled

12 with tools that were now described and out there and

13 capabilities that were described, information about operations

14 where we're providing streams of information. It immediately

15 undermined the relationships we had with other parts of the

16 government as well as with vital foreign partners, who had

17 often put themselves at risk to assist the agency. And it put

18 our officers and our facilities, both domestically and

19 overseas, at risk.

20 Q. Just staying at a very general level, what steps did you

21 take in the immediate aftermath of those disclosures to address

22 those concerns?

23 A. A task force was formed. Because operations were involved

24 we had to get a team together that did nothing but focus on

25 three things, in this priority order. In an emergency, and

K2jWsch4

Roche - Direct

1 that's what we had, it was operate, navigate, communicate, in
2 that order. So the first job was to assess the risk posture
3 for all of these operations across the world and figure out how
4 to mitigate that risk, and most often, the vast, vast majority
5 we had to back out of those operations, shut them down and
6 create a situation where the agency's activities would not be
7 revealed, because we are a clandestine agency.

8 The next part of that was to navigate across all the people
9 affected. It was not just the CIA. There were equities for
10 other government agencies. There were, of course, equities at
11 places and bases across the world, where we had relationships
12 with foreign partners. People heeded immediately, were calling
13 and asking what do I do, what do I say?

14 And the third part of that was to communicate, which was --
15 in the course of looking at this as a what systemic issues led
16 to the ability to have our information out there -- was to
17 document that and write a report that would serve as a lessons
18 learned with the idea of preventing it from ever happening
19 again.

20 Q. Did there come a time when the CIA made a formal criminal
21 referral in connection with the disclosure of that information?

22 A. Yes.

23 Q. And who was that referred to?

24 A. It was referred to the Department of Justice.

25 Q. What was the relationship between that criminal

K2jWsch4

Roche - Direct

1 investigation and the task force that you described?

2 A. Both were aware that those activities were going on, but
3 they were kept separate. They were kept separate and isolated.
4 Again, it was operate, navigate, communicate. It was not to
5 investigate.

6 Investigation needed to be kept separate, and from the
7 beginning, there were steps taken to make sure that it was the
8 Department of Justice that was handling anything that could
9 later serve as evidence, and that they would protect the
10 evidentiary chain; and that if there came a time to de-conflict
11 something, that the task force would talk to them before
12 possibly getting even near that line.

13 Q. You talk about the work of the task force. Was their work
14 limited to evaluating CCI?

15 A. No. No.

16 Q. Generally speaking, what were they looking at?

17 A. They were looking at the systemic issues associated with
18 agency technology networks.

19 The agency has two general classes of networks. One is the
20 agency's worldwide secured network that every employee has
21 access to, and then a much, much smaller subset of networks
22 that were created because the very special functions of them
23 could not run on the main network. The information on them had
24 not been sanitized and quarantined and, therefore, contained
25 things like malware; or the information that would be held on a

K2jWsch4

Roche - Direct

1 network was so extremely sensitive that -- and handled in a
2 different way than the work flow from the network that it
3 needed a mission network. So they were to look at all IT
4 networks and to look at systemic issues associated with how
5 those networks were run, the data curation, etc.

6 Q. Did the task force make recommendations?

7 A. Yes, they did.

8 Q. Without getting into the specifics of what they were, what
9 was the standard those recommendations were trying to meet?

10 A. So, the agency -- the main standard was to ensure that as
11 fast as possible, that we accelerate ensuring that all of the
12 mission networks got to what is, what was referred to by the
13 White House as the gold standard for audit on the systems; the
14 ability to understand what people were doing on the systems and
15 to get ahead of behaviors that might indicate someone was
16 taking nefarious action on any IT agency platform.

17 Those capabilities are in place for the large, worldwide
18 network that everyone has access to. The much smaller
19 footprint of mission networks represents very unique problems
20 in each one of those mission networks, and the main part of the
21 task force was that that work needed to be accelerated across
22 the board.

23 Q. And remind me, sir, when did you leave the CIA?

24 A. October 31, 2019.

25 Q. At that time were you still dealing with issues resulting

K2jWsch4

1 from the Vault 7 disclosures?

2 A. Yes.

3 MR. DENTON: No further questions, your Honor.

4 THE COURT: Ms. Shroff.

5 MS. SHROFF: Your Honor, I need a sidebar before I can
6 cross.

7 THE COURT: All right.

8 MS. SHROFF: Thank you.

9 (Continued on next page)

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K2jWsch4

(At sidebar)

THE COURT: Yes.

MS. SHROFF: Your Honor, look, I don't take great notes, but Mr. Denton has elicited from him what a HUMINT is. He talked about what line officers do. He talked about ride-alongs and the work he does in remote locations. He has now testified about the WikiLeaks task force report, their recommendations. He's testified about clandestine efforts, how the repercussions of the leaks involved foreign nations calling him. He's talked about how foreign officers were at risk. And yesterday, the Court ruled that I couldn't even ask the witness if, because of the leak, the foreign office itself had to be shut down, moved or in any way curtailed. Right?

THE COURT: Where is this going?

MS. SHROFF: Either strike his testimony or allow me to cross. But to have them just elicit all of this stuff and say it's at a high level, high level and I can't get to cross seems to be rather wrong here. I don't know.

THE COURT: Has there been an objection on cross? You haven't even started cross.

MS. SHROFF: Well, I know, but yesterday when I tried to cross on the foreign offices --

THE COURT: If he testified to it on direct, you can cross on it.

MS. SHROFF: Well, yesterday they objected and you

K2jWsch4

1 sustained the objection. I just don't want to do what the
2 Court had already ruled on, and I think this is improper. They
3 elicited this.

4 THE COURT: Mr. Denton.

5 MR. DENTON: I think it's clear, your Honor, he did
6 not testify about the specifics of operations or where these
7 bases were located. He testified about the concept, that the
8 operations existed, that there were foreign bases. If she
9 wants to cross-examine him about that, that's fine.

10 MS. SHROFF: What concepts? What I can cross-examine?
11 Is there a foreign location?

12 That's improper. He knows it's improper. He elicited
13 information about HUMINT. He didn't need to do that.

14 MR. DENTON: I asked him to define the term.

15 MS. SHROFF: Why? It's a term that I can't cross on.
16 It's a term that I can't cross on. I can't cross on the
17 foreign repercussions. I can't, for example, ask this man, By
18 the way, are there other issues that the CIA has to have dealt
19 with when your biggest problem is that you did this to friendly
20 nations? Your problem wasn't that there was a leak. Your
21 problem was that you got caught doing this to friendly nations.
22 This is all proper cross because he brought it out at a high
23 level.

24 THE COURT: Mr. Denton.

25 MS. SHROFF: He can move to strike if he wants. I'll

K2jWsch4

1 give him that option.

2 MR. DENTON: I didn't ask any of those questions, your
3 Honor.

4 MS. SHROFF: Yes, but I need to ask them.

5 THE COURT: I don't know about that.

6 MS. SHROFF: Why? How else am I going to show that
7 the foreign nations were upset with the CIA for a thousand
8 different things; that this leak was no more harmful than any
9 of the other leaks that the CIA has been caught with? Why am I
10 not able to show that? He elicited it.

11 Look, they can take a break. They can go back and
12 move to strike, but I think to leave me in this position of not
13 crossing this man is improper.

14 THE COURT: I suggest you start cross-examination, and
15 we'll see where the objections go.

16 MS. SHROFF: OK.

17 (Continued on next page)

K2jWsch4

Roche - Cross

1 (In open court)

2 CROSS-EXAMINATION

3 BY MS. SHROFF:

4 Q. Good afternoon, sir.

5 A. Good afternoon.

6 Q. Sir, is it fair to say that one of the repercussions of
7 this leak was that friendly nations that had been the subject
8 of CIA intervention, siphoning of data and theft of their
9 information, were upset with the CIA?

10 A. That's not my experience, no, ma'am.

11 Q. What do you mean by that's not your experience?

12 A. Ma'am, if I understand the question, you said friendly
13 nations were upset over these releases that the CIA was
14 siphoning their data.

15 Q. Right.

16 A. In my experience, as the deputy director of DDI and senior
17 staff officer who had to speak to many nations about this, I
18 would offer the concern was cooperating foreign partners were
19 concerned that their helping us would be revealed. But I'm not
20 aware, ma'am, of any country -- and I'm not sure what the
21 definition of a friendly country is -- but I'm -- I'm not aware
22 of any country that approached CIA or approached CCI or our
23 officers and expressed that concern for this leak.

24 Q. OK. Let me try it again.

25 A. Yes, ma'am.

K2jWsch4

Roche - Cross

1 Q. Do you know what a friendly nation is?

2 A. Ma'am, there -- we have -- I would define friendly nation
3 as ones that help facilitate the collection and sharing of
4 information in a way that matches our mission pace. There is a
5 wide spectrum of longstanding partners that we have that work
6 with us very well and other partners that would only work on
7 selected issues and other partners that won't work with us at
8 all and everywhere in between. So I would -- an example of a
9 friendly nation would be our commonwealth partners.

10 Q. OK. Let me try it again. A friendly nation is a nation
11 that believes that working with the United States is fine, at a
12 simple level. Is that accurate?

13 A. Ma'am, I would amend that to say it has to be on
14 intelligence matters.

15 Q. Right. I'm only -- we're all about intelligence at this
16 trial. Nothing else. I mean, it's the CIA. Only
17 intelligence, right? We're not talking about anything else.

18 A. Yes, ma'am.

19 Q. OK. So you share intelligence, correct?

20 A. Yes, ma'am.

21 Q. And the nations with which you share intelligence in a
22 friendly manner is what the CIA calls the friendly nations,
23 right?

24 A. That's not a term that we use, ma'am, but for purposes of
25 this discussion, I understand.

K2jWsch4

Roche - Cross

1 Q. OK. And is it fair to say that the CIA uses covert means
2 to extract data from friendly nations?

3 MR. DENTON: Objection.

4 THE COURT: Overruled.

5 A. Uh --

6 Q. You know, just a very simple yes or no would be fine.

7 A. As pertains to this leak --

8 Q. No, no.

9 THE COURT: Read the question back, please.

10 (Record read)

11 A. The CIA collects publicly available information from all
12 over the world. I would, ma'am, may I ask your definition,
13 what do you mean by covert means?

14 Q. Well, let me put it to you this way. When you're trying to
15 read Angela Merkel's emails, are you reading it in the
16 newspaper?

17 MR. DENTON: Objection.

18 THE COURT: Sustained.

19 Q. Do you recall a time when the CIA covertly tried to read
20 Angela Merkel's emails?

21 MR. DENTON: Objection.

22 THE COURT: Sustained.

23 MS. SHROFF: Your Honor --

24 Q. OK. Let me try it this way. Do you consider Germany to be
25 a friendly nation?

K2jWsch4

Roche - Cross

1 A. I know that we don't consider Germany to be an adversary.
2 We're not at war with Germany.

3 Q. OK. So Germany is not an adversary nation, but it's not a
4 friendly nation?

5 A. We have -- the United States has a good relationship with
6 Germany.

7 Q. OK. And as part of these good relationships with Germany,
8 does the CIA still use covert methods to gain intelligence from
9 Germany?

10 MR. DENTON: Objection.

11 THE COURT: Sustained.

12 MS. SHROFF: Your Honor, this was all part of their
13 direct. If you want to take a lunch break, I'm happy to take a
14 lunch break at this point.

15 THE COURT: I think we'll take our luncheon recess
16 now.

17 MS. SHROFF: Thank you.

18 THE COURT: And resume at 1:30.

19 You can step down, Mr. Roche. Let the jury go out.

20 (Continued on next page)

K2jWsch4

Roche - Cross

1 (Jury not present)

2 THE COURT: OK. You're excused. Thank you.

3 (Witness not present)

4 THE COURT: Please be seated.

5 All right. Ms. Shroff.

6 MS. SHROFF: Your Honor, this witness testified on
7 direct about all the harm that came to the United States
8 because the information was leaked. He talked about the harm
9 that destroyed relationships between foreign countries. He
10 talked about the harm with nations. He talked about the harm
11 with people and agents in remote locations. He testified, and
12 although Mr. Denton kept prefacing his questioning with "at a
13 high level," all of that information is now before the jury.

14 This is information -- obviously, the government is
15 going to argue at summation -- that hurt the United States, No.
16 1. And also, it goes to harm. I should be allowed to explore
17 exactly what the harm came from because the harm doesn't flow
18 just from what the government says it flows from. And it's
19 proper cross-examination.

20 If the government thinks that this level of
21 cross-examination is improper and they only should be allowed
22 to elicit facts that go to harm and the second table should
23 just sit in silence, then that's, I think, unfair to
24 Mr. Schulte SSH. On a very basic level, let's just go
25 through -- I don't have his direct in front of me, because I

K2jWsch4

Roche - Cross

1 don't have the transcript, but I tried to take good notes.

2 He talked about the harm to the foreign offices, how
3 the foreign offices were down. Yesterday, the witness on the
4 stand also testified about foreign offices. I was not allowed
5 to cross on whether there was, in fact, any harm to the foreign
6 office. The government objected and said that I should not be
7 able to cross for reasons that are clear at the sidebar, and I
8 disagreed. But may I even now put my objection in open court,
9 or is that not even allowed? I don't even know if I can put my
10 objection in open court.

11 THE COURT: I thought you were putting your objections
12 now.

13 MS. SHROFF: No. I haven't told you why I feel --
14 they said it at sidebar.

15 MR. DENTON: Mr. Denton.

16 MS. SHROFF: That transcript wasn't released to me
17 yesterday.

18 THE COURT: All right.

19 MR. DENTON: Your Honor, the problem with what Ms.
20 Shroff said at the sidebar was that what she wanted to elicit
21 was classified information about the location of the CIA
22 facility.

23 MS. SHROFF: That's not what I was seeking to elicit.
24 All I was seeking to elicit --

25 THE COURT: I thought she was trying to elicit the

K2jWsch4

Roche - Cross

1 fact that the location had to move.

2 MS. SHROFF: Exactly. That they had to take no steps.

3 Listen, if there was a bomb threat to the Federal
4 Defenders office, we might actually move or we may not move.
5 Right? The response to the threat needs to be relevant.
6 They're saying there was a threat. They're saying they were
7 worried about something, and I'm not allowed to cross about
8 whether or not they did anything in reaction to the threat?

9 MR. DENTON: First of all, your Honor, to the extent
10 that Ms. Shroff is asking about the effect of the Vault 7
11 leaks, she did ask Mr. Roche that; she didn't get the answer
12 she wanted and so she started asking about Angela Merkel and
13 Germany totally out of context.

14 MS. SHROFF: It's not out of context. There is a
15 context. The context --

16 THE COURT: One at a time, please.

17 Go ahead.

18 MR. DENTON: He was not asked about particular
19 operations, particular countries. I didn't ask him about any
20 conversations he had in particular. We didn't get into
21 particular details about the specifics of what was going on.
22 What he talked about were, at a general level, facts that are
23 not classified.

24 Ms. Shroff, as she tried to do in her CIPA filings and
25 the Court rejected, wants to get into the details of

K2jWsch4

Roche - Cross

1 operations, get into details of foreign relations, get into
2 matters that are classified. Those are not relevant.

3 MS. SHROFF: Let me ask you something. Are you done?

4 MR. DENTON: Yes, ma'am.

5 MS. SHROFF: OK. You know how they got it at a high
6 level? Because they don't want to elicit anything on cross.
7 It's a very clever tactic, and that's what I'm calling out.
8 What I'm saying to the Court is, please, if I may, all I'm
9 saying to you is this, if you elicit facts at a high level, I'm
10 allowed to cross at any level to show that those facts don't
11 lead to an element of the offense. I'm allowed to show that
12 the leaks did not cause the kind of harm that they're talking
13 about. They want to talk about the harm to the Foreign Office
14 West and I want to show there was no harm to the Foreign Office
15 West. Foreign Office West didn't move. Foreign Office West
16 didn't shut down. Foreign Office West didn't have anything
17 wrong done to it. I'm allowed to show that. Just because he
18 says he did the direct at a high level and I'm going at a low
19 level, that doesn't make my cross inappropriate. I am giving
20 them the option -- you can move to withdraw those facts and not
21 sum up. If this is so classified for them, they can move to
22 withdraw, but I don't think it's proper and constitutional to
23 elicit facts at a high level and then say to the defense
24 lawyer, Well, you simply can't cross because it's classified.

25 THE COURT: Mr. Denton.

K2jWsch4

Roche - Cross

1 MR. DENTON: Judge, we had days of CIPA proceedings on
2 precisely this point, that the level of generality is
3 significant to the question of what is classified and what's
4 national security. The Court has already ruled on that. Ms.
5 Shroff is now trying to say that because the government stayed
6 within the boundaries of what the Court said was acceptable she
7 should get to completely change the game.

8 MS. SHROFF: No, the Court didn't rule on this issue
9 in that manner. That's clearly incorrect. I don't have
10 anything from a classified point of view about Angela Merkel.
11 Anything I know about Angela Merkel, trust me, comes from
12 nothing more than either talking to Mr. Zas or reading a
13 newspaper. That is all I know. The government has never once
14 given us any information. We have repeatedly asked --
15 repeatedly asked. We asked for documents related to harm. We
16 asked for documents related to damages. We asked for all of
17 these documents in discovery repeatedly. They never gave us a
18 thing.

19 THE COURT: In your view, Mr. Denton, what can the
20 defense ask?

21 MR. DENTON: I think she's entitled to ask questions,
22 as any defense lawyer is, about the testimony that was elicited
23 on direct examination. If she wants to ask questions about
24 whether it was true that it had an effect on their dealings
25 with foreign countries, she's entitled to do that, but she's

K2jWsch4

Roche - Cross

1 not entitled to spin a hypothetical that's going to ask whether
2 certain operations were, in fact, conducted or not, none of
3 which was part of the direct.

4 MS. SHROFF: What spin? What operations? I'm not
5 spinning an operation. I'm asking him. How can I possibly
6 cross?

7 THE COURT: What about the Angela Merkel situation,
8 because there was publicity about that?

9 MR. DENTON: First of all, and as we've discussed many
10 times, your Honor, whether or not there's publicity doesn't
11 change the classification on something, but more specifically,
12 it has nothing to do with this case.

13 MS. SHROFF: It does. It does have something to do
14 with it.

15 THE COURT: Ms. Shroff, you've got to stop. You can't
16 interrupt.

17 MR. DENTON: If the question is whether there was harm
18 for the Vault 7 leaks, which, first of all, the question for
19 the jury is going to be whether the defendant should have known
20 that there was harm from it, not whether, objectively, Ms.
21 Shroff can prove that there wasn't harm from it. The questions
22 before the witness pertained only to that, and so going into
23 what other operations may have been conducted at some other
24 time in history with respect to some other country by some
25 other part of the CIA or some other part of the U.S. government

K2jWsch4

Roche - Cross

1 has no bearing whatsoever on whether the defendant should have
2 known that the Vault 7 leaks that he disclosed would be harmful
3 to the United States.

4 MS. SHROFF: You know what? The Court should strike
5 all of that testimony, have Mr. Denton ask this witness, Should
6 Mr. Schulte have known that release of Vault 7 would harm the
7 United States, whatever answer Mr. Roche gives, I will have no
8 cross on that. But that is not what he did.

9 Had he done that, your Honor, I would not be seeking
10 to cross on Angela Merkel or harm. He set the narrative, and
11 Mr. Denton can still fix that narrative. All Mr. Denton has to
12 do is to agree to strike that testimony, ask the question that
13 he now clearly is telling the Court is the only relevant
14 question, put it to the witness, and we're done. And you'll
15 have a shorter cross.

16 MR. DENTON: Your Honor, that's obviously not
17 necessary. Also, the question I asked him was simply what
18 happened when the leak happened, which is entirely proper for a
19 trial about a crime.

20 MS. SHROFF: I'm sorry. Am I missing something?
21 Mr. Denton said the only thing that's relevant is whether or
22 not Mr. Schulte knew that there was harm caused by the Vault 7
23 leak. Nothing in his direct went to that point. Move to
24 strike. Strike all of that. He can reask the question that is
25 actually relevant to this case, and then there is no need for

K2jWsch4

Roche - Cross

1 this argument anymore.

2 THE COURT: All right. I think, Ms. Shroff, you're
3 going to have to continue with your questions. I'll listen to
4 Mr. Denton's objections as you go along, and I'll rule on them.
5 I think that Mr. Roche testified at a very high level, and
6 there is room there for you to cross-examine. If you want to
7 get down into the details, Mr. Denton will make his objections,
8 and I'll rule on them as they come across.

9 MS. SHROFF: OK. Or Mr. Denton could at least move to
10 strike and then ask the only relevant question.

11 THE COURT: Mr. Denton can probably do a lot of
12 things. It's up to Mr. Denton.

13 MS. SHROFF: Well, I encourage Mr. Denton to think
14 about my proposal.

15 THE COURT: All right. We're done. See you at 1:30.

16 (Luncheon recess)

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K2J3SCH5

1 AFTERNOON SESSION

2 1:30 p.m.

3 (In open court; jury not present)

4 THE COURT: Some scheduling matters first.

5 Ms. Shroff, you want to be finished by 3?

6 MS. SHROFF: I do, your Honor, because I did tell
7 Dr. Bellovin to actually cancel his class at Columbia and come
8 and meet Mr. Schulte at 3.

9 THE COURT: Okay.

10 MS. SHROFF: I even have an e-mail to prove it.

11 THE COURT: I'll take your word for it.

12 Tomorrow one of the jurors has a court appointment,
13 and so we'll be starting at 11:30 tomorrow.

14 Ms. Shroff, you'd do much better in your questions if
15 you'd confine yourself to what Mr. Roche said on direct.

16 MS. SHROFF: I was trying to.

17 THE COURT: He didn't say a word about Angela Merkel.

18 MS. SHROFF: That's right. He didn't. Right --

19 THE COURT: Confine yourself to the direct.

20 MS. SHROFF: But the problem, your Honor, is the
21 direct was purposely at a high level. Think about it as a
22 robbery. If there is a robbery --

23 THE COURT: I don't need an analogy.

24 MS. SHROFF: But the analogy, if I could just put it
25 on the record for a minute.

K2J3SCH5

1 THE COURT: Yes.

2 MS. SHROFF: If you want to prove that's not how the
3 robbery happened, you cross on the details. That's all I'm
4 trying to do, cross on the details. That's how you show
5 somebody's just making something up.

6 THE COURT: If you confine yourself to the direct and
7 explore that, you won't have a problem.

8 Call in the jury. Mr. Roche, too, please. All right,
9 David.

10 (Continued on next page)

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K2J3SCH5

Roche - Cross

1 (Jury present)

2 THE COURT: Before we start this afternoon, we're
3 going to break at 3 o'clock. And I understand one of the
4 jurors has a court appointment tomorrow, so we'll resume
5 tomorrow morning at 11:30. So 3 o'clock we're going to break
6 and 11:30 we'll resume tomorrow.

7 All right, Ms. Shroff.

8 MS. SHROFF: Thank you, your Honor.

9 BY MS. SHROFF:

10 Q. Sir, let me just ask you about -- could you let me start
11 over.

12 Tell me how to properly pronounce your name.

13 A. My last name is pronounced "Roche."

14 Q. Okay. Mr. Roche, if I could have you take a look at
15 Exhibit 1093, please.

16 A. Yes, ma'am.

17 Q. And it's fair to say, right, that you received this
18 document via e-mail, you received this e-mail with attachments,
19 correct?

20 A. Yes, that's correct.

21 Q. And if you could just keep your voice up because I have a
22 hard time hearing, and then I think you're finished and then I
23 interrupt you. So keep your voice up.

24 A. Yes, ma'am.

25 Q. Thank you. Was it the first time that you had heard of

K2J3SCH5

Roche - Cross

1 Mr. Schulte when you got this e-mail?

2 A. Yes.

3 Q. And before you got this e-mail, you had not had any
4 conversation with Karen about Mr. Schulte, correct?

5 A. No, ma'am.

6 Q. And you had not had any conversations with anyone else,
7 because this is the first time you heard of him, correct?

8 A. Yes, to the best of my recollection. Unless he was in a
9 large meeting I was in. Again, no direct.

10 Q. That's fine. And when you got this e-mail, do you know, do
11 you remember where you were?

12 A. Yes.

13 Q. Where were you, sir?

14 A. I was sitting at my desk at CIA headquarters.

15 Q. You were in your office when you got the e-mail?

16 A. Yes, ma'am.

17 Q. And when you got this e-mail, you see that he has copied
18 three people on -- is it three people on it, correct?

19 A. That's correct.

20 Q. And before you replied, and I think your reply was marked
21 as 1096, right. Do you have the hard copy there or do you need
22 it pulled up.

23 Take a look at Government Exhibit 1096, right?

24 A. Yes, now I have it.

25 Q. Correct?

K2J3SCH5

Roche - Cross

1 A. Yes.

2 Q. When you reply, before you reply, do you talk to this
3 individual named Andrew Hallman?

4 A. No. To the best of my recollection, Andrew was out of the
5 office in a meeting or an appointment. Andrew and I usually
6 tag up later at night. My recollection is that around maybe
7 6:30 at night I spoke to Andrew and said, hey, there is
8 something going on, let me go through the issues with you.
9 This was one of them.

10 Q. So your testimony is that you spoke to Mr. Hallman before
11 you replied to this e-mail, correct?

12 A. No, ma'am.

13 Q. You did not?

14 A. No, ma'am.

15 Q. So you just replied to the e-mail, even though the e-mail
16 is to Mr. Hallman, and you are copied, right?

17 A. That's correct.

18 Q. Okay. And your e-mail states, and I won't belabor it too
19 much. You basically say, look, this is part of my job, and
20 come, let's have a conversation, correct?

21 A. Yes, basically.

22 Q. Right. And you figure out that Mr. Schulte has not replied
23 to your invitation to meet, right?

24 He doesn't reply, you testified on direct, correct?

25 A. Yes.

K2J3SCH5

Roche - Cross

1 Q. And then you learn that he doesn't reply because he's
2 logged off the system and left for the day; is that correct?

3 A. That is correct. I sent this e-mail and then followed it
4 with a phone call trying to reach him by phone.

5 Q. Okay. So is it because you couldn't reach him by phone
6 that you figured out he left for the day or because you looked
7 at the system and saw he had logged out?

8 A. Ma'am, I tried to get his contact information. Made a
9 call, there was no answer. So I called my counterpart, my
10 colleague, my direct report in CCI front office and said I need
11 you to go find where this employee is right now, and the system
12 will indicate if an employee is logged on or logged off.

13 I received information back, that the -- Mr. Schulte
14 had logged off. And that his work team and work unit had
15 explained that he had said he had left for the day. Left the
16 work spaces for the day.

17 Q. Okay. Well, you would know that just from looking at his
18 badge records, right?

19 A. I personally did not look at his badge records.

20 Q. Right. But any one of the people that you had working for
21 you would have known just by looking at his badge records that
22 he had left for the day, correct?

23 A. Well, ma'am, the people that I call --

24 Q. I just wanted to know if you could have just looked at his
25 badge records?

K2J3SCH5

Roche - Cross

1 A. No, I could not have. The people that work for me in CCI
2 front office do not have access to badge records nor do I.

3 Q. So you're saying that you had no access to badge records
4 that would tell you where an employee was?

5 A. The office of security has access to badge records. You
6 have to make a request to the office of security.

7 Q. Right. And my question is did you make that request?

8 A. No, ma'am, I didn't.

9 Q. So, you found out by some other means that Mr. Schulte had
10 left the building for the day, correct?

11 A. He had left his work spaces they said. He appears to have
12 left for the day. But he was not where anybody could find him
13 in the work spaces in the CCI building.

14 Their conclusion was that he had left for the day
15 because he was logged off and because he was no longer in the
16 work spaces.

17 Q. When you say work space, do you just mean the office?

18 A. His office, yes, ma'am.

19 Q. Right. So like a general office. He left the office for
20 the day?

21 A. Yes.

22 Q. Okay. And when you learned that, you tried to reach him
23 the next day. Is that your testimony?

24 A. I asked for a meeting to be arranged. I have people in my
25 front office that schedule meetings, special assistants and

K2J3SCH5

Roche - Cross

1 executive assistants, and I told the CCI front office that I
2 wanted a meeting arranged with him.

3 Q. So you directed somebody else to set up a meeting between
4 you and Mr. Schulte?

5 A. That is correct.

6 Q. And then there came a time when somebody set up the meeting
7 between you and Mr. Schulte, correct?

8 A. Yes. It was not too long after, I believe, again, on the
9 30th of June. This was sent on the 28th.

10 Q. June -- is it 28 or 26?

11 A. It was sent on the 28th, ma'am, in the afternoon. Then my
12 recollection is meeting with him in CCI spaces on the 30th.

13 Q. Okay. So, when you scheduled -- not you, but your
14 administrative assistants scheduled the meeting for you, for
15 the 30th, Mr. Schulte showed up, correct?

16 A. Yes, ma'am.

17 Q. And when he showed up you said you thought his demeanor was
18 normal. Was his demeanor normal to you?

19 A. Yes. It was not -- it was a conversational demeanor.

20 Q. Conversational demeanor. And it's fair to say, right, that
21 it is Mr. Schulte who sent you the memo of warning that he had
22 been given, correct?

23 A. That is correct.

24 Q. And it's also fair to say did he also send you the letter
25 of warning?

K2J3SCH5

Roche - Cross

1 A. Yes, the attachments.

2 Q. Okay. And let me just make sure I get this correctly. You
3 see on 1096 where it says on top it says very/respectfully
4 Sean, correct?

5 A. Yes, ma'am.

6 Q. And then it says N?

7 A. Yes.

8 Q. There are no cc's or bcc's on this message, correct?

9 A. Yes, correct.

10 Q. What does that mean?

11 A. So, in the system it is possible to take someone's note and
12 blind copy other people, and I wrote there are no cc's or bcc's
13 on this message. I, in responding back to the way he sent the
14 note, there is a cc to Meroe Park. But this was trying to say
15 to him --

16 Q. I didn't ask what it is trying to say. I just asked you
17 what it does say.

18 A. It says N, for note, there are no cc's or bcc's on this
19 message.

20 Q. That's inaccurate, right?

21 A. That's inaccurate.

22 Q. There is in fact a cc on it?

23 A. There is a copy, yes.

24 Q. In fact, you don't know if there is a bcc because we
25 wouldn't see the bcc?

K2J3SCH5

Roche - Cross

1 A. I know there wasn't a bcc.

2 Q. I'm asking you to take a look at the document.

3 A. I'm looking at the document, ma'am.

4 Q. Right. Shows no bcc, correct?

5 A. Documents don't show bcc.

6 Q. So that statement that you are telling Mr. Schulte, the man
7 with whom you want to build trust with, is wrong, right? That
8 N note, correct?

9 A. It is technically incorrect, yes.

10 Q. What do you mean "technically incorrect"?

11 A. Well, ma'am, no one could see a bcc, so what I was
12 trying --

13 Q. I'm talking about the cc.

14 A. The cc is incorrect. I did a reply all and there was a cc.
15 I didn't add any more people or up the ante.

16 Q. That really wasn't my question. I just wanted to know that
17 statement there are no cc's is incorrect.

18 A. Yes, ma'am. That's incorrect.

19 Q. So, Mr. Schulte sends you this attachment, correct?

20 A. Yes.

21 Q. And again, you've testified before that this is the first
22 time you read the attachment, correct?

23 A. This is the first time I knew anything about these matters.

24 Q. And it's normal for you to not be in the loop on this.

25 This is not out of the ordinary?

K2J3SCH5

Roche - Cross

1 A. It's not out of the ordinary.

2 Q. Were you surprised that nobody in management below you had
3 looped you in?

4 A. No, I was not.

5 Q. You were not?

6 A. Because at this level a letter of warning, in the CIA
7 procedures, a level of warning normally would not be brought to
8 directorate level. It does not need directorate level
9 concurrence. There are more -- there are down the road avenues
10 for disciplinary actions in the agency that require directorate
11 intervention, and I discussed some of those with the deputy
12 director of CCI.

13 Q. I don't know what all of that means. But all I wanted to
14 know is it's not unusual for you not to be in the loop at this
15 level, correct?

16 A. That's correct.

17 Q. Okay. So, you get this memo of warning that's attached,
18 you read it, correct? And I am assuming you read the e-mail in
19 great detail, correct?

20 A. I read the e-mail very quickly and wanted to respond as
21 fast as I could.

22 Q. No, no, I mean do you go back and then read it carefully
23 after you've immediately replied?

24 A. Yes, ma'am.

25 Q. Okay. And you've read the entire e-mail before you meet

K2J3SCH5

Roche - Cross

1 with Mr. Schulte, correct?

2 A. That's correct.

3 Q. And you have read the letter of warning, correct?

4 A. Yes.

5 Q. And you testified you had pulled his file, correct?

6 A. I pulled his agency bio.

7 Q. By "agency bio" do you just mean a folder that's on him?

8 A. That is a summary document that shows when someone came on
9 board, where they went to school, if they have that, if they
10 went to school, where they've been assigned.

11 Q. Where did he go to school?

12 A. University of Texas at Austin.

13 Q. Right. And that was in there, and that was accurate,
14 correct?

15 A. Yes, ma'am.

16 Q. And was there any other information in that file other than
17 he had gone to UT Austin?

18 A. There was information about the particular work units that
19 he had been assigned to in CIA.

20 Q. What were those?

21 A. I only remember the last one, because it was relevant. The
22 unit in CCI.

23 Q. The what?

24 A. The unit that is located in CCI.

25 Q. What unit was that?

K2J3SCH5

Roche - Cross

1 A. Group level unit in CCI.

2 Q. What was the group level unit?

3 A. I don't know -- in the instructions -- we normally don't
4 identify group names.

5 Q. Go ahead.

6 A. It was the Engineering Development Group.

7 Q. Okay. He was in the EDG group?

8 A. Yes.

9 Q. Where in EDG?

10 A. I do not recall which part of EDG he was in.

11 Q. Do you recall what he did?

12 A. Yes.

13 Q. What did he do?

14 A. He was a -- he developed tools to support cyber
15 intelligence.

16 Q. What does that mean, to develop tools to support cyber
17 intelligence?

18 A. He developed capabilities, software-based capabilities that
19 allowed the United States to collect intelligence from computer
20 systems.

21 Q. Collect intelligence how?

22 A. Collect intelligence by exploiting weaknesses in those
23 systems that allow access and insight into how the systems are
24 used or what's being done with the systems.

25 Q. Let's break that down. He designed software you said?

K2J3SCH5

Roche - Cross

1 A. He developed, which in engineering we use to say you have a
2 requirement to have a capability, and he would be working with
3 others to develop a capability that then could be used later to
4 solve this requirement.

5 Q. To solve what requirement?

6 A. To solve a cyber requirement. To solve a requirement that
7 allowed us to get access via cyber.

8 Q. To allow you to get what kind of access via cyber?

9 A. Access into a system that would be a clandestine access
10 into a computer network.

11 Q. What is a clandestine access?

12 A. Clandestine defined means that there was no signs that it
13 is going on.

14 Q. There's no signs, meaning like hidden access?

15 A. Yes. Unrevealed access.

16 Q. Unrevealed access?

17 A. Yes.

18 Q. Secret access?

19 A. Yes.

20 Q. Covert access?

21 A. Covert, ma'am, is a different word than clandestine. Has a
22 different meaning.

23 Q. You'll explain it to me in a minute. But the access that
24 these developers are developing is basically secret access,
25 correct?

K2J3SCH5

Roche - Cross

1 A. Access that would not be easily detected, yes.

2 Q. Not just not easily detected, also not linked back to the
3 United States, correct?

4 A. That's the objective of clandestine operations.

5 Q. Tell us some more about this objective of clandestine
6 operations.

7 A. Clandestine --

8 MR. DENTON: Can we just get a specific question, your
9 Honor?

10 MS. SHROFF: Okay.

11 Q. Pick a specific project that the United States had as a
12 clandestine project and explain it to us.

13 MR. DENTON: Objection.

14 THE COURT: I think your first question is not
15 objectionable. Why don't you ask that again.

16 Q. So, tell us, please, what is a clandestine operation by the
17 United States?

18 A. Something is clandestine when the signature of what's
19 happening, whether it's physical, digital, is managed in a way
20 that would not reveal that the activity is happening.

21 Q. Well, not just that the activity is happening, but also who
22 is doing the activity, correct?

23 A. Yes.

24 Q. Right. So you are not developing a tool and then sending
25 it out into the universe and then putting a signature that says

K2J3SCH5

Roche - Cross

1 "made by the CIA," correct?

2 A. No, you are not doing that.

3 Q. Right. In fact, you're taking great pains to make sure
4 that nobody can ever attribute it back to the CIA, correct?

5 A. That's the goal.

6 Q. That's the goal.

7 A. Correct, that's the mission, correct.

8 Q. That's your mission, correct?

9 A. Yes.

10 Q. Right. And the CIA invests millions and millions of
11 dollars ensuring that that mission comes to fruition, correct?

12 A. Yes.

13 Q. Now, when these tools are designed and sent off into the
14 universe, those are the tools that are developed at this OSB
15 level, correct?

16 A. Yes.

17 Q. And when you checked Mr. Schulte's file, or the -- what did
18 you call it? Bio something?

19 A. Agency bio.

20 Q. Agency bio. Was there anything more that you remember
21 reading in that agency bio?

22 A. Not to the best of my recollection. It was -- it does not
23 normally give a lot of description about the current
24 assignment. It lists the assignments.

25 Q. But I'm not talking just about assignments. I'm talking

K2J3SCH5

Roche - Cross

1 about anything else you learned from his agency bio about him.

2 A. It's a very brief summary.

3 Q. Okay. So what else did you learn, other than the agency
4 bio, I mean? What other documents did you pull, other than the
5 agency bio?

6 A. In addition to the attachments he sent, I spoke to my
7 direct reports in the CCI front office asking them for
8 background on this employee.

9 Q. So, translate that into things we would understand. What
10 did you ask for?

11 A. I asked them tell me what do you know about Mr. Schulte,
12 where is he assigned, what is this letter of warning, what is
13 the background behind this.

14 Q. Just by using first names, tell us who did you speak with.

15 A. I spoke with John.

16 Q. John.

17 A. Yes.

18 Q. Okay. Anybody other than John?

19 A. No. He is my direct, he was my direct report so he -- I
20 dealt with him.

21 Q. And is that the time that you learned about what you said
22 on direct was something about thumb drives?

23 A. Yes.

24 Q. Okay. In fact, you never learned anything about a thumb
25 drive incident that occurred in 2016, correct?

K2J3SCH5

Roche - Cross

1 A. When I spoke -- my recollection is when I spoke to John, he
2 relayed an incident where Mr. Schulte, it had been detected
3 that Mr. Schulte put a thumb drive into the agency's enterprise
4 IT system.

5 Q. Right. And when was that incident; do you remember?

6 A. I don't remember the date, no, ma'am.

7 Q. Do you remember that it happened when he was an intern?

8 A. No, ma'am, I don't.

9 Q. Do you remember that he self-reported it?

10 A. No.

11 Q. Do you remember that he was told that that was a rookie
12 mistake?

13 A. No.

14 Q. Did you ever follow up and say, hey, I'm reading something
15 about a thumb drive incident, let me follow up before I testify
16 in court about it?

17 A. The thumb drive --

18 Q. Yes or no?

19 A. I did not read about it, I was told verbally. And no,
20 ma'am, I did not follow up.

21 Q. You did not follow up?

22 A. No.

23 Q. Sitting here today, you have no idea when that thumb drive
24 incident, as you call it, occurred, correct?

25 A. That's correct.

K2J3SCH5

Roche - Cross

1 Q. Did you by any chance talk to his supervisor named -- hold
2 on a minute, please.

3 (Counsel conferring)

4 Q. You spoke to a man named Gordon?

5 A. No.

6 Q. Why?

7 A. As a very senior official, to reinforce the chain of
8 command in CCI, I dealt with my direct reports.

9 Q. But this guy --

10 A. And my direct reports in the CCI front office. That was my
11 point of contact.

12 Q. Right. Okay. So, if a direct report who was your point of
13 contact was not Mr. Schulte's supervisor, when he was an
14 intern, and had that thumb drive incident as an intern, you
15 spoke to no one else other than the direct office report,
16 correct?

17 A. The CCI front office, yes, ma'am.

18 Q. So you never went back and checked as to whether or not
19 this was an intern incident, correct?

20 A. That's correct.

21 Q. You never reached out to a man named Gordon, even though
22 you knew who he was, correct?

23 A. I did not know who Gordon was.

24 Q. Wasn't he listed as Mr. Schulte's supervisor when he was an
25 intern? I mean, that's office-level knowledge, right?

K2J3SCH5

Roche - Cross

1 A. No, that's not something -- that's not something I would
2 know. That would not be on an agency bio.

3 Q. Certainly you would have access to information as to who
4 his supervisors were over the years, right?

5 A. I could get access to that.

6 Q. Right.

7 A. But that is not something that I would readily have access
8 to.

9 Q. Well, I mean, you had access to his immediate supervisor at
10 that time Sean, correct? Sean F.

11 A. I never met Sean.

12 Q. Oh, I didn't ask you if you met Sean. I just asked you if
13 you had access to him.

14 A. Through the CCI front office, I would get access to any
15 officer using my direct reports who I hold accountable for that
16 organization.

17 Q. You could have talked to Sean F., correct?

18 A. That's correct.

19 Q. You could have talked to Gordon?

20 A. Correct.

21 Q. You could have talked to Karen?

22 A. Correct.

23 Q. You could have talked to Mr. Weber, correct?

24 A. Correct.

25 Q. You could have talked to Justin Nichols?

K2J3SCH5

Roche - Cross

1 A. Correct.

2 Q. You could have talked to Amol, correct?

3 A. Correct.

4 Q. You could have talked to Michael K., correct?

5 A. Correct.

6 Q. You could have talked to Michael S., correct?

7 A. Correct.

8 Q. In fact, you were so high up, you could talk to anyone you
9 wanted to about Josh Schulte, correct?

10 A. If the arrangements were made for me to get to them, yes, I
11 could have.

12 Q. Who would make those arrangements? You, right?

13 A. The CCI front office. I would task the CCI front office.
14 I did in fact --

15 Q. No, my question was you had the power to make the
16 arrangements, right?

17 A. Yes.

18 Q. That's all I wanted. Thank you.

19 So you get this e-mail, and then you get ready for
20 your meeting with Mr. Schulte, correct?

21 A. Correct.

22 Q. And you testified on direct, did you not, that you were
23 concerned when you met with him, right?

24 A. Yes.

25 Q. Okay. And you testified that you were concerned because

K2J3SCH5

Roche - Cross

1 you saw a red flag, correct?

2 A. Yes.

3 Q. And the red flag you thought was partially because you read
4 phrases such as "incurred her wrath" in his e-mail, correct?

5 A. Hmm-hmm.

6 Q. And by the way, do you know what the phrase "incur
7 somebody's wrath" means?

8 A. I believe so.

9 Q. What does did mean?

10 A. Wrath to me means retribution.

11 Q. Is that what it means? Meaning you don't want somebody to
12 get mad at you? Is that the normal understanding of you incur
13 someone's wrath?

14 A. In my vernacular, wrath means retribution. More than
15 somebody just getting frustrated or angry with you.

16 Q. You think that the phrase "incur somebody's wrath" is only
17 used when somebody's frustrated or angry, correct?

18 A. Yes.

19 Q. Okay. And that was one of the things that caused the red
20 flag for you, right?

21 A. Yes.

22 Q. Okay. And after this red flag was in the back of your
23 mind, you said you wanted to have somebody keep an eye on him,
24 correct? Is that what you said?

25 A. Following the meeting, and the full content of the meeting,

K2J3SCH5

Roche - Cross

1 I spoke to deputy director of CCI and said make sure his
2 actions are being closely monitored.

3 Q. Who is that person? Just give me a first name.

4 A. John.

5 Q. John. Right. And you told John that, correct?

6 A. That's correct.

7 Q. And when you told John that you wanted Mr. Schulte closely
8 monitored, what exactly did you mean?

9 A. That means that any time that he is on the agency network,
10 that means that the security team is aware of the cumulative
11 number of challenges he's had in following our rules, that
12 there is followup any time he's given a directive to make sure
13 that directive is followed, and to make sure that any further
14 incidents are fully documented.

15 Q. Okay. And this was in June, correct?

16 A. Yes.

17 Q. 2016, correct?

18 A. Yes.

19 Q. And sitting here today, do you know what steps they took to
20 keep an eye on him?

21 A. Yes, I do.

22 Q. Okay. So they monitored his use of DevLAN, correct?

23 A. To the extent possible on DevLAN.

24 Q. You are the CIA. Isn't it possible?

25 A. So, the network, the enterprise network has the gold

K2J3SCH5

Roche - Cross

1 standard for audit. The DevLAN was a system that was working
2 to try and achieve that standard, did not have that standard.

3 Q. Your testimony is that you knew at that time that DevLAN
4 did not meet the gold standard?

5 A. No, I did not know that at that time.

6 Q. You did not know?

7 A. No. I did not know that at that time.

8 Q. Let's figure out what you knew about DevLAN at that time.
9 Did you know that it was an open network?

10 A. I'm sorry, I'm not familiar -- what do you mean by open
11 network?

12 Q. Did you know it was a dirty network?

13 A. I knew that it handled data that had needed quarantine.
14 Malware, etc.

15 Q. Okay.

16 A. That's what I believe you mean by "dirty network."

17 Q. But, you knew that it wasn't a secure network, right?

18 A. I believed it to be a secure network.

19 Q. You believed it to be a secure network at that time?

20 A. Yes, yes.

21 Q. Post-Snowden it is your testimony today that you still
22 believe DevLAN to be a secure network?

23 A. Yes.

24 Q. Post-Snowden?

25 A. Yes.

K2J3SCH5

Roche - Cross

1 Q. People at the CIA never expression any qualms to anyone at
2 the CIA management level, including to you, that what happened
3 with Snowden could happen at the CIA; that's your testimony?

4 A. No.

5 Q. That's not your testimony?

6 A. No.

7 Q. Okay. So what is your testimony?

8 A. My testimony is that the vast, vast majority of people who
9 come work at the CIA are on the CIA enterprise network, which
10 is the gold standard for audit. And my testimony is that from
11 the first days of the creation of DDI, the mission networks
12 that represent a much smaller specialized footprint, that the
13 goal was to get those to the highest levels of audit as fast as
14 possible.

15 Q. That really wasn't my question. Let me try my question
16 again.

17 A. Sure.

18 Q. Snowden happened.

19 A. Hmm-hmm.

20 Q. Right? You remember that?

21 A. Yes, ma'am.

22 Q. Okay. People talked about it, right, because this was in
23 your industry, correct?

24 A. Yes.

25 Q. It was classified information, correct?

K2J3SCH5

Roche - Cross

1 A. Yes.

2 Q. That had gotten out, correct?

3 A. Yes.

4 Q. Related to your field of work, correct?

5 A. Related to intelligence.

6 Q. Right. Which is your field of work?

7 A. Yes.

8 Q. And you certainly didn't want it to happen to DevLAN,
9 correct?

10 A. Ma'am, Snowden happened 2013. DDI had not been created
11 yet. I was not having discussions about DevLAN in 2013.

12 Q. I didn't ask you if you were having discussions only in
13 2013. I am just asking you after 2013, you had on your horizon
14 that whatever happened with Snowden you didn't want to happen
15 again, correct?

16 A. Yes, ma'am.

17 Q. Okay. So, basically, you had somebody you had red flagged,
18 correct?

19 A. Yes.

20 Q. And you wanted to make sure he didn't access DevLAN
21 incorrectly, correct?

22 A. Any computer system, ma'am.

23 Q. Any computer system, right?

24 A. That's right.

25 Q. And you made sure that whatever he was doing on these

K2J3SCH5

Roche - Cross

1 computer systems was being watched, correct?

2 A. I directed that his activities be monitored.

3 Q. Right. You followed up, right, that his activities were in
4 fact monitored?

5 A. I gave the directive --

6 Q. Just can you try and answer my question? It would really
7 help.

8 A. Yes, ma'am. I'm trying to answer your question.

9 Q. So did you follow up and make sure that your directive was
10 followed?

11 A. I was told that it was being followed. I asked.

12 Q. You asked?

13 A. Yes, ma'am.

14 Q. And you were told it was being followed?

15 A. Yes, ma'am.

16 Q. His activity on DevLAN was being monitored, correct?

17 A. I asked that all his activities were being monitored.

18 Q. You broke it down for them, correct?

19 A. No, I did not.

20 Q. This guy is a huge red flag you testified on direct.

21 Right? I mean, you were so concerned about it, according to
22 you, you canceled a trip to Europe. Is that what you said?

23 A. No, that's not what I said.

24 Q. Okay. It was a big red flag for you, you said, right?

25 A. Yes, it was.

K2J3SCH5

Roche - Cross

1 Q. So you followed up, right? You had a checklist, you wrote
2 down each network, and you ticked off, right?

3 A. No.

4 Q. Oh, okay.

5 One of the other things you testified, did you not,
6 that he told you during this meeting that he was just -- he was
7 still able to get his access back. Is that what you testified?

8 A. Yes. I'm paraphrasing.

9 Q. Can you just paraphrase for me again, because I don't have
10 a transcript. What the exactly do you recall being told?

11 A. What I recall being told is after a conversation of why he
12 should never try to do something like that again, and him
13 explaining that he did not have access to this previous project
14 he had worked on, he paused and said, you know, I could get
15 back onto that if I wanted to.

16 Q. He paused and he said, you know, I could get back onto that
17 if I want to?

18 A. Yes. Right after discussing --

19 Q. I got that. Huge red flag for you, right?

20 A. Yes.

21 Q. Okay. And let me ask you this. What is administrative
22 leave at the CIA?

23 A. Administrative leave is one of several forms of time card
24 leave for allocating your pay and your hours worked. You are
25 in pay status or you are in various aspects of leave status.

K2J3SCH5

Roche - Cross

1 Administrative leave is one type of leave.

2 Q. Okay. And you can put an individual or an employee on
3 administrative leave if you see a red flag, correct?

4 A. The office of security has to do that, ma'am.

5 Q. You could make a referral to the office of security,
6 correct?

7 A. That's correct.

8 Q. Right. Did you?

9 A. No, I did not.

10 Q. Okay. So you didn't tell them to put him on administrative
11 leave.

12 Can you say that again for me -- what did you say he
13 said to you, according to you?

14 A. Words to the effect of, you know, I could get back into
15 that if I wanted to.

16 Q. Okay. So you didn't tell security. And did you send an
17 e-mail to John saying this guy said, you know, I can get back
18 onto that if I want to?

19 A. I had a discussion --

20 Q. No, no. We'll get to the discussion. I'm only asking you
21 if you sent an e-mail. Did you send an e-mail?

22 A. No.

23 Q. Okay. And your testimony is you didn't send an e-mail,
24 correct?

25 A. Correct.

K2J3SCH5

Roche - Cross

1 Q. You did not memorialize it, correct?

2 A. I'm sorry, ma'am. Could you repeat that?

3 Q. Sure. Did you memorialize it?

4 A. I don't recall.

5 Q. You don't recall.

6 A. I don't recall.

7 Q. Okay. But you recall telling John about it, correct?

8 A. Absolutely.

9 Q. Right. And what did John do, by the way?

10 A. John responded back to me, Sean, we're all over it, we're
11 monitoring him, security is all over it, CIA is all over it.

12 Q. He told you CIA is all over him, right?

13 A. Basically.

14 Q. So from at least June, everybody was watching him?

15 A. That's what I was told.

16 Q. June, July, August, September, October, November is when he
17 leaves, correct? November 10, 2016, correct?

18 A. Correct.

19 Q. Somebody's watching him the whole time, right? Because you
20 are all over, it correct?

21 A. Hmm-hmm.

22 Q. Right?

23 A. Yes.

24 Q. Right. By the way, sitting here today, do you have any
25 idea when the information was taken from the CIA that ended up

K2J3SCH5

Roche - Cross

1 in Vault 7?

2 A. I have the date that corresponds to the date of the data
3 which is March.

4 Q. It's March, right? According to you it's March?

5 A. Yes.

6 Q. Okay. And you don't know sitting here today whether the
7 information went from the CIA to a third party, correct?

8 A. I know a third party published it.

9 Q. No, no.

10 A. Okay.

11 Q. I'm not asking who published it. I'm asking you the
12 trajectory. You have no idea, right? You don't know if it
13 went to Russia first, correct?

14 A. Correct.

15 Q. You don't know if it went to Spain first, correct?

16 A. Correct.

17 Q. In fact, you don't even know it just went to Baltimore,
18 correct?

19 A. Correct.

20 Q. Right. All you know is, in 2017, WikiLeaks published it,
21 correct?

22 A. That's correct.

23 Q. And did you by any chance learn that even after 2017
24 publication, the CIA still did not know whether or not
25 WikiLeaks had the information from the gold repository?

K2J3SCH5

Roche - Cross

1 MR. DENTON: Objection.

2 THE COURT: Overruled.

3 A. Could you repeat that, please, ma'am.

4 Q. Sure. Is it fair to say, sir, that the CIA slash you still
5 don't know if WikiLeaks has the gold repository?

6 THE COURT: Rebecca, could you read the question back,
7 please.

8 (The record was read)

9 A. I believe that represents the last conversation I had on
10 what is called the gold repository.

11 Q. So I'm correct.

12 A. Yes.

13 Q. CIA still doesn't know?

14 A. I don't know that, ma'am. I don't work there anymore.

15 Q. You know what the WikiLeaks task force report is?

16 A. Yes, I do.

17 Q. Could you pull that up for this gentleman, please.

18 Are you happier with a paper copy or the screen?

19 A. We can do this.

20 Q. Could we just go to page 45. Could you just focus on the
21 actual text. You see that line, "However we now assess with
22 moderate confidence"?

23 A. Yes.

24 Q. Right. "Moderate confidence that WikiLeaks does not
25 possess the gold folder," correct?

K2J3SCH5

Roche - Cross

1 A. Correct.

2 Q. We can take that down and show him the first page of the
3 document. First page. There you go. And that's the date,
4 correct?

5 A. Yes.

6 Q. Were you at the CIA then?

7 A. Yes, I was.

8 Q. After you had the meeting with Mr. Schulte and after you
9 talked to John, you did not ever follow up about him, correct?

10 A. I verbally asked about him several times.

11 Q. You verbally asked about him several times?

12 A. Yes.

13 Q. So this is a person that you thought was a huge red flag
14 and you only followed up verbally, correct?

15 A. No, ma'am. We had formal biweekly meetings with CCI, I
16 did, where at the end of the meeting we would discuss personnel
17 issues.

18 Q. And?

19 A. And during that portion of the meeting I'd say where do we
20 stand on Mr. Schulte? Has he resigned? Is he going to resign?
21 Any latest problems?

22 Q. Uh-huh.

23 A. Words to that effect.

24 Q. Right.

25 A. On several occasions in these biweekly formal meetings.

K2J3SCH5

Roche - Cross

1 Q. And in these biweekly formal meetings you never made any
2 formal notation, correct?

3 A. No.

4 Q. You did not suggest at that at these biweekly meetings that
5 this person with this humungous red flag should be put on
6 administrative leave, correct?

7 A. No.

8 Q. You did not even say to these people revoke his clearance,
9 correct?

10 A. No.

11 Q. You didn't even say take away his top secret clearance,
12 correct?

13 A. Correct.

14 Q. You did not even ask them to reduce his level of clearance,
15 correct?

16 A. That's correct.

17 Q. You did not do anything at all that you memorialized
18 anywhere, correct?

19 A. Correct.

20 Q. Okay. Let me ask you something. Is there a reason why you
21 didn't take any of those steps?

22 I'm not asking for a discourse on management. I am
23 asking you why you didn't take any of those steps.

24 A. Yes.

25 Q. What is the reason, sir?

K2J3SCH5

Roche - Cross

1 A. Because I trusted the leadership team at CCI.

2 Q. Okay. So you thought you had done what you were supposed
3 to do, and you had handed it over, correct?

4 A. That's correct.

5 Q. Okay. You called this leak, did you not, a digital Pearl
6 Harbor, correct?

7 A. Yes.

8 Q. When did you come up with this phrase, by the way?

9 A. I'm not sure.

10 Q. Not sure. That's okay.

11 A. That to me is the most accurate analogy.

12 Q. It is the -- I'm sorry?

13 A. It was a surprise, it was devastating, left us with very
14 little capability.

15 Q. Okay. Let's talk about that. How many people died in
16 Pearl Harbor, do you know?

17 A. More than 3,000.

18 Q. How many people died as a result of the Vault 7 and the
19 Vault 8 leaks?

20 A. I don't have an answer for that.

21 Q. Why not?

22 A. Because, it -- it's not something someone's keeping a count
23 of.

24 Q. You are not keeping an account of it, but you called it
25 Pearl Harbor.

K2J3SCH5

Roche - Cross

1 A. Yes, I called it a digital Pearl Harbor.

2 Q. How many people died as a result, I mean, how many people
3 died as a result of Vault 7 and Vault 8?

4 A. I don't know.

5 Q. In fact, none, correct?

6 A. I can't say that either.

7 Q. You can't say that. You don't know?

8 A. No, ma'am.

9 Q. Okay. Did the CIA ever commission a report to find out how
10 many people died as a result of the Vault 7 and the Vault 8
11 leaks?

12 A. Not that I am aware of.

13 Q. Okay. Was there ever a report commissioned by the CIA to
14 figure out what harm Vault 7 and you Vault 8 caused to
15 America's relationships with friendly nations? Was there a
16 report ever commissioned?

17 A. I'm not -- I do not know.

18 Q. You do not know?

19 A. I do not know.

20 Q. No. Do you know if anybody went and formally asked and
21 wrote down the harm that came? You don't know, right?

22 A. I do not know.

23 Q. And you do not know if anybody ever wrote a report,
24 correct?

25 A. The task force report.

K2J3SCH5

Roche - Cross

1 Q. No, no. I didn't ask about a task force report. We have
2 the task force report. The task force report does not talk
3 about the repercussions on friendly foreign nations, correct?

4 A. Correct.

5 Q. Right. So I'm only asking you if somebody commissioned a
6 report to find out what exactly the impact was of Vault 7 and
7 Vault 8 on America's relationships with other friendly nations.
8 There was no such report, correct?

9 A. I'm not aware of one.

10 Q. Okay. Was there a report to find out what the impact was
11 of the Vault 7 and the Vault 8 leaks on America's relationships
12 with adversary nations?

13 A. I am not aware.

14 Q. How about with non-state foreign hostile actors; was there
15 a report done on that?

16 A. On -- there was reporting.

17 Q. No, no, I'm not asking about reporting, sir. I am asking
18 you if the CIA commissioned a report to document the harm done
19 by the leak. That's what I'm asking you. Was there a written
20 report that you saw that said this is the harm that has come to
21 our relationship with adversary nations.

22 Yes or no?

23 A. I'm not aware.

24 Q. Sitting here today, do you know of any report that actually
25 created a statistical number of any CIA agents that were placed

K2J3SCH5

Roche - Cross

1 at risk because of the release of Vault 7 or Vault 8?

2 A. I am aware of assessments of operations.

3 Q. Listen to my question carefully. Okay?

4 A. Yes.

5 Q. Right. So my question to you is, you can get to assessment
6 of operations in a minute. My question to you is, did the CIA
7 say let's get a report and let's write down how many CIA agents
8 were left at risk because of Vault 7 and Vault 8?

9 A. I'm not aware.

10 Q. Did the CIA ever do a report to figure out how many CIA
11 officers were left at risk because of Vault 7 or Vault 8?

12 A. That work was done.

13 Q. That work was done. Was there a report written?

14 A. I'm not aware.

15 Q. Well, there was work done but you are not aware if a report
16 was written?

17 A. Yes, for all these issues. Across the agency, there were
18 assessments.

19 Q. No, no. Are you changing your answer now that there was a
20 report written?

21 A. In terms of report, I think you're looking for a summary
22 document.

23 Q. I'm not -- don't think about what I'm looking for. I'm
24 asking you the question, sir, and you are under oath now,
25 right?

K2J3SCH5

Roche - Cross

1 A. Yes, ma'am.

2 Q. Okay. Do you want to change any of your answers that a
3 report was written?

4 THE COURT: Sustained.

5 MR. DENTON: Thank you, your Honor.

6 Q. Would you like to change your answer?

7 A. No, ma'am.

8 Q. So there were no reports that you received, correct?

9 A. There was reporting.

10 Q. No. I'm not asking you about reporting, sir.

11 A. Ma'am, I am trying to be responsive. I'm honestly trying
12 to be responsive. There were assessments by the various parts
13 of the agency on which officers could have been exposed, etc.
14 There was a team dedicated to doing that assessment.

15 Q. There were written assessments. Do you want to call them
16 assessments?

17 A. Yes.

18 Q. Okay. Who wrote these assessments?

19 A. Teams of CIA officers who had access to the information.

20 Q. They wrote actual assessments, correct?

21 A. They produced reporting.

22 Q. Right. They produced reporting. And did you see this
23 reporting?

24 A. No, I did not.

25 Q. You did not. Do you know if the reporting was ever given

K2J3SCH5

Roche - Cross

1 to the United States attorney's office as part of this case?

2 A. I do not know what form the reporting took. I do not know.

3 Q. So you don't know what form the reporting took, correct?

4 You don't know what form the assessments were written in,
5 correct?

6 A. Correct.

7 Q. You do not know if these assessments were written or
8 when -- you do know they were written, correct? According to
9 you now?

10 A. Yes.

11 Q. You don't know when they were written, correct?

12 A. The exact dates they're completed, no, I can't recall.

13 Q. You don't know what the conclusions were, correct?

14 A. Not in detail, no.

15 Q. Well, in any form. Do you know any of the conclusions at
16 all? That's all I want to know.

17 A. There were conclusions about CIA officers and programs
18 that -- that may have risked exposure via the information that
19 was released --

20 Q. May have risked exposure is not what I am asking you. I am
21 asking you if there was a report that somebody was actually at
22 risk.

23 A. I'm not aware.

24 Q. Okay. You are not even aware of how that quote unquote
25 assessment was done, correct?

K2J3SCH5

Roche - Cross

1 A. I'm aware of the team that came in and did it. I even
2 spoke to them while they were going through the Vault 7
3 material.

4 Q. You spoke to a team, correct?

5 A. Yes.

6 Q. Who's the team?

7 A. A team of analysts.

8 Q. They were a team of analysts who were analyzing the Vault 7
9 and Vault 8 leak. That's not what I am asking you about, sir.
10 I am asking you about a risk assessment. Please. I'm asking
11 you if you ever saw a risk assessment done that said these
12 analysts, officers, or agents are at risk.

13 MR. DENTON: Asked and answered, your Honor.

14 MS. SHROFF: I don't think so.

15 A. I did not see such a report.

16 Q. Thank you. By the way, do you know how many CIA foreign
17 offices had to be closed as a result of this leak? Isn't the
18 answer none?

19 MR. DENTON: Objection.

20 THE COURT: Overruled.

21 A. I don't know of any offices that were closed.

22 Q. That had to be closed.

23 THE COURT: He is not aware of any that were closed.

24 Q. Were there any that were closed because of the Vault 7 or
25 Vault 8 leak?

K2J3SCH5

Roche - Cross

1 A. I'm not aware.

2 Q. You are not aware, right?

3 A. No.

4 Q. And you are aware, though, that the CIA's position is that
5 the information was taken in March and released more than a
6 year later, correct?

7 MR. DENTON: Objection.

8 MS. SHROFF: That's what he testified to.

9 MR. DENTON: That's not what he testified to.

10 THE COURT: I don't think that is what he testified
11 to. It was the CIA's position.

12 Q. When did the CIA think the information was taken?

13 A. The -- based on what has been published, an assessment was
14 that the information was as -- the information was dated in the
15 March time frame.

16 Q. March of what year?

17 A. 2016.

18 Q. Okay. When was it released?

19 A. It was released in -- March 7, 2017.

20 Q. A whole year went by, right, in the middle?

21 A. Yes, ma'am.

22 Q. CIA survived, correct?

23 A. Yes, ma'am.

24 Q. Business went on as usual, correct?

25 A. No, ma'am.

K2J3SCH5

Roche - Cross

1 Q. You didn't even know about the leaks until 2017?

2 A. I'm sorry, ma'am. I misunderstood. After the -- after the
3 leak, business did not go on.

4 Q. I am only talking about that gap now.

5 A. Yes, ma'am.

6 Q. Work went on, correct?

7 A. Yes, ma'am.

8 Q. Field locations survived, correct?

9 A. That's correct.

10 Q. Foreign offices survived?

11 A. Correct.

12 Q. Agents continued to do whatever syphoning they were doing,
13 correct?

14 A. As far as I know.

15 Q. Officers continued to write code, develop, and move right
16 along, correct?

17 A. Yes, ma'am.

18 Q. In fact, had WikiLeaks not released that information, the
19 CIA would never even know it was gone. Isn't that correct?

20 A. I can't say that, actually, ma'am.

21 Q. Okay, let's pull this up. Take a look, would you. Take a
22 look at page 4. "We did not realize the loss had occurred
23 until a year later." Page 4.

24 You with me?

25 A. Yes, ma'am.

K2J3SCH5

Roche - Cross

1 Q. Do you read that?

2 A. Yes.

3 Q. Okay. By the way, could you tell me what this report is?

4 A. This is the WikiLeaks task force report.

5 Q. What is the WikiLeaks task force report?

6 A. It is the task force communicating findings from their
7 examination of systemic issues that led to the WikiLeaks
8 release.

9 Q. Could you tell me that in, like, simpler English, and if
10 you could speak into that mic that would be most helpful to me.

11 A. Okay. This is the task force that was formed immediately
12 after the Vault 7 release that examined what we should do
13 operationally as a result, and looked at any systemic issues to
14 make recommendations for -- to prevent something like this from
15 ever occurring again.

16 Q. Okay. And this is the formal report, right?

17 A. Yes.

18 Q. And this report says that you didn't know until -- not you
19 personally, but the CIA didn't know until a whole year later,
20 right?

21 A. Yes.

22 Q. And by the way, do you see on page -- actually, do you see
23 on page 4 on the top, do you see where it says "Day-to-day
24 security practices had become woefully lax"?

25 A. Yes.

K2J3SCH5

Roche - Cross

1 Q. You didn't know that at that time, did you?

2 A. No.

3 Q. Did you also know that CCI had not worked with CIMC to put
4 in any procedures in place?

5 A. No, I was not aware.

6 Q. You were not aware, right?

7 A. No.

8 Q. Okay. And you were aware, though, right, at some point,
9 that there was some embarrassment, was there not -- can you
10 just take that down. Thank you.

11 -- at the fact that the CIA didn't know that this
12 information had been gone for a whole year, right? It was
13 embarrassing, wasn't it?

14 A. I don't recall myself feeling embarrassed.

15 Q. It wasn't embarrassing that the Central Intelligence Agency
16 of the United States of America had lost data that nobody
17 realized had been gone for a whole year?

18 MR. DENTON: Asked and answered, your Honor.

19 THE COURT: Sustained.

20 Q. You do know that the WikiLeaks report blamed Mr. Schulte,
21 correct?

22 A. I don't recall. I read it quite a while ago.

23 Q. Okay. You saw the WikiLeaks report, right? This report;
24 you'd seen it, right?

25 A. Yes, ma'am.

K2J3SCH5

Roche - Cross

1 Q. And I'm correct, am I not, that you saw no damage
2 assessment report, correct?

3 A. I saw damage assessment reports on operations, routinely.

4 Q. No, no, I'm not talking about e-mail traffic. I'm talking
5 about a report.

6 A. Ma'am, I'm not talking about e-mail traffic. I'm talking
7 about having the operations team describe the status of
8 operations, and what was happening on a periodic basis given
9 the status of operations after the Vault 7 disclosure.

10 Q. Right. That's what's happening on your status of
11 operations. I am asking about a damage assessment report.

12 A. The damage was to operations, ma'am.

13 Q. The damage was to operations. And you received a damage
14 assessment operations report?

15 A. Periodically.

16 Q. No, no, not reporting to you. I am asking you if you
17 received an actual report. A report on which you can examine
18 methodology, statistics, numbers, and facts. Did you ever
19 receive such a report?

20 MR. DENTON: Objection.

21 THE COURT: Overruled.

22 A. I received briefings and copies of those briefings.

23 (Continued on next page)

K2jWsch6

Roche - Cross

1 BY MS. SHROFF:

2 Q. OK. Great. Did you receive a report?

3 A. The briefing was the report.

4 Q. No, no. I'm asking you if you received a document that
5 said WikiLeaks damage assessment task force report. Did you
6 receive one?

7 A. I received briefings. That's reporting. I received
8 briefings that damage --

9 THE COURT: Listen to the question, Mr. Roche.

10 THE WITNESS: Yes, sir.

11 THE COURT: Did you get a report that said WikiLeaks
12 damage assessment task force report?

13 A. No, ma'am.

14 MS. SHROFF: Thank you.

15 MR. DENTON: Nothing further, your Honor.

16 THE COURT: Mr. Roche, you're excused. Thank you very
17 much.

18 (Witness excused)

19 THE COURT: Next witness.

20 MR. KAMARAJU: Yes, your Honor. The government calls
21 Mark Bradley.

22 MARK A. BRADLEY,

23 called as a witness by the government,

24 having been duly sworn, testified as follows:

25 THE COURT: Please sit down, Mr. Bradley.

K2jWsch6

Bradley - Direct

1 THE WITNESS: Yes, sir.

2 THE COURT: Pull yourself right up to the microphone.

3 MR. KAMARAJU: May I proceed, your Honor?

4 THE COURT: Yes, you may.

5 MR. KAMARAJU: Thank you, your Honor.

6 DIRECT EXAMINATION

7 BY MR. KAMARAJU:

8 Q. Good afternoon, sir.

9 A. Good afternoon to you.

10 Q. Sir, are you employed?

11 A. I am.

12 Q. Where do you currently work?

13 A. I am the director of the information security oversight
14 office at the National Archives administration, Washington,
15 D.C.

16 Q. We're going to talk a little bit more about that, but first
17 of all, what's the National Archives?

18 A. We are the national memory. We sit on more classified
19 information than any agency of the United States government.
20 All records of the U.S. government ultimately come to the
21 National Archives.

22 Q. Before we dig into a little bit of your current duties, I'd
23 like to talk about your background.

24 A. Sure.

25 Q. Do you have any degrees?

K2jWsch6

Bradley - Direct

1 A. I do. I have a bachelor's of arts degree from university
2 of Washington and Lee. I graduated Phi Beta Kappa. I have a
3 master's degree in modern history from Oxford, where I was a
4 Rhodes scholar. And I have a law degree from the University of
5 Virginia School of Law. I'm a member of the District of
6 Columbia bar.

7 Q. Thanks. I'm just going to ask you to sit a little bit
8 closer to the mike.

9 A. Sure.

10 Q. And maybe slow down a little bit for the court reporter.

11 A. Is that better?

12 Q. Yes, that's better.

13 Now, you testified that you have a law degree --

14 A. Yes, sir.

15 Q. -- is that right?

16 A. I do.

17 Q. Have you ever actually practiced law?

18 A. I have.

19 Q. What was your practice?

20 A. First practice was with a law firm in D.C., and then I went
21 out on my own and was a criminal defense for almost eight
22 years. I defended everything from indecent exposure on the
23 Metro to first degree murder, even had an espionage case.

24 I later also, too, practiced law with the Department of
25 Justice from November of 2000 until December of 2016.

K2jWsch6

Bradley - Direct

1 Q. OK. So let's just break that down. You testified that you
2 were working at a law firm for a period of time --

3 A. Uh-huh.

4 Q. -- is that right?

5 A. Right.

6 Q. And then after that you moved on to doing criminal defense
7 work?

8 A. Correct.

9 Q. And could you just give us some general examples of the
10 kind of work you did as a criminal defense lawyer?

11 A. Well, as I said, I did drug trials. Started out with
12 solicitation. First trial I ever had my client overdosed and
13 passed out in the courtroom. I thought -- I was petrified.
14 I've done everything from serious felonies to misdemeanors, and
15 felonies included first degree murder.

16 Q. And did you do any criminal cases that involved espionage?

17 A. I did.

18 Q. Now, I believe you testified that after that you moved on
19 to the Department of Justice, is that right?

20 A. I did.

21 And we forgot one critical point. I was at the Central
22 Intelligence Agency from 1985 until 1989.

23 Q. We're coming to that.

24 A. We're coming back to that. OK. I'm getting ahead of
25 myself. Sorry.

K2jWsch6

Bradley - Direct

1 Q. At the Department of Justice, what positions did you hold?

2 A. Started out as a line attorney, then promoted to assistant
3 counsel and then rose up to be the deputy counsel for
4 intelligence policy in a small office that was called then the
5 office of intelligence policy and review. We were kind of the
6 legal counsel for the Department of Justice on intelligence
7 matters. Also practiced in front of the Foreign Intelligence
8 Surveillance Court for almost eight years.

9 Q. OK. Let's talk about that. The office that you mentioned,
10 what were its general responsibilities?

11 A. Primary responsibility was to prepare applications for
12 covert searches and electronic surveillance for the
13 intelligence, United States intelligence surveillance court,
14 the FISA court?

15 Q. And what is the FISA court?

16 A. The Foreign Intelligence Surveillance Court is the
17 so-called secret court. It's been in the news quite a bit as
18 of late, a lot more than some people would like. It's --
19 again, it's the -- comes out of the Church Committee.

20 THE COURT: Comes out of the Church Committee.

21 THE WITNESS: Yes, sir. Comes out of the Curch
22 Committee.

23 A. So the idea was that the intelligence communities,
24 particularly the CIA and FBI, had run amok, illegally
25 surveilling American citizens in particular, and we needed a

K2jWsch6

Bradley - Direct

1 more regulated way of doing that. So Article III judges were
2 appointed by the Chief Justice of the Supreme Court to sit on
3 this court and hear these so-called secret cases. They're held
4 in a SCIF, a sensitive compartmented information facility,
5 highly classified cases. But they -- they, you know, regular
6 Article III judges, just like the judge sitting here today.

7 Q. How long were you with the Department of Justice?

8 A. Went over from November of -- November 22 of 2000 until
9 December 26 of 2016, when President Obama approved my
10 appointment of archivist of the United States to my current
11 position as the director of the information security oversight
12 office.

13 Q. And that's your current position?

14 A. Correct.

15 Q. And we'll talk about those responsibilities in a second.

16 You mentioned that you were with the Central Intelligence
17 Agency for a period?

18 A. Correct.

19 Q. Generally speaking, what did you do at the CIA?

20 A. I spent most of my career in what was called the office of
21 Near Asia and South Asian analysis. I was one of the agency
22 experts on Pakistan, particularly its politics. I served
23 mostly in Washington but did time out in Pakistan.

24 Q. And did that job involve classified information?

25 A. Highly classified information. The Russians had invaded

K2jWsch6

Bradley - Direct

1 Afghanistan in 1979 so we were running a war through there, so
2 we were doing a lot of very highly classified things.

3 Q. Now, I want to turn to your current position. You
4 mentioned that you were first appointed in November of 2016 --

5 A. Right.

6 Q. -- is that right?

7 And was that appointment ever approved?

8 A. I'm sorry?

9 Q. Was that appointment approved?

10 A. It was. President Obama approved my appointment.

11 Q. And when was that?

12 A. It would have been, first day on the job was December 26,
13 2016. The approval happened sometime in late November.

14 Q. In your current position, does that make you part of the
15 U.S. intelligence community?

16 A. It does not. In fact, we are explicitly not part of the
17 intelligence community for a reason. We are kind of -- I think
18 of us as the umpires in the game. We don't -- we're not
19 members of the IC itself, intelligence community, but we have
20 oversight over it. And again, it's another one of the Church
21 Committee findings, that they needed a neutral overseer of what
22 they do. So what we do is we oversee how they classify and
23 declassify national security information.

24 Q. Let's talk about a little bit at a high level about what
25 your responsibilities are in your current position. Can you

K2jWsch6

Bradley - Direct

1 describe your day to day?

2 A. No day is the same. I oversee five executive orders.

3 These range from how U.S. government classifies and

4 declassifies national security information to how it handles

5 control of classified information. I chair the national

6 industrial security policy advisory committee. We have a big

7 role in the national industry security base. As you might

8 guess, the U.S. government relies a lot on private contractors

9 to build things, like airplanes and submarines. If you think

10 about that, we have to give a lot of classified information to

11 the private sector, so we're trying to oversee how they're

12 handling the information themselves, make sure they're doing it

13 properly.

14 Q. Let's take that one at a time.

15 A. Sure.

16 Q. What's the first department that you mentioned?

17 A. You mean the executive order?

18 Q. Yes.

19 A. Executive Order 13526.

20 Q. OK. What's an executive order?

21 A. Executive order is an order signed by the President of the

22 United States that spells out how he wants certain things

23 carried out, and in this particular case, 13526, federal

24 government -- how we, we as the government, classify and

25 declassify state programs or national security information.

K2jWsch6

Bradley - Direct

1 Q. Let's take that a little bit slowly. You mentioned that
2 the president issues an executive order --

3 A. Right.

4 Q. -- is that right?

5 And the executive order that you testified to, how did you
6 become familiar with it?

7 A. I became familiar with it first when I was at the
8 Department of Justice. I was the deputy counsel for
9 intelligence policy. I was one of the DOJ's, for lack of
10 better way to say it, top experts on intelligence, and so I sat
11 on a variety of committees at the National Safety Council that
12 actually helped write that order.

13 Q. And you mentioned that there were some other executive
14 orders --

15 A. Right.

16 Q. -- that you were also responsible for administering --

17 A. Right.

18 Q. -- is that right?

19 A. There were.

20 Q. Let's talk about those one at a time.

21 A. 12 --

22 Q. What's the next one?

23 A. 12998, which governs the national industrial security
24 program; 12949, which is the state, local triable; 12956, which
25 is control of unclassified information, just a bevy of these,

K2jWsch6

Bradley - Direct

1 these orders. And again, they're governing different aspects
2 of how the government, U.S. government shares and protects
3 national security information.

4 Q. Now, you mentioned that you were the umpire, you call balls
5 and strikes?

6 A. Right.

7 Q. What did you mean by that?

8 A. I mean that we are seen as the neutral arbiter in disputes
9 and how things are supposed to be carried out. I myself -- how
10 can I describe this? I am kind of the information czar, a
11 better way -- the president is the true czar. I'm kind of the
12 little czar. But we make sure that the edicts of the executive
13 order are being carried out lawfully and correctly. So again,
14 I don't have a dog in the fight. I just want to see that it's
15 done properly. So again, I think of myself sitting right at
16 home plate, strike or ball, I don't care which team wins, as
17 long as it's done correctly and lawfully.

18 Q. And how is one of those provisions teed up for you?

19 A. Well, it will often come as a -- we do a lot of oversight
20 over the intelligence community. So we'll go out and we'll
21 make sure that they're marking the documents properly. We'll
22 make sure that they're handling them properly, that they're
23 storing them properly, that their systems are up to snuff. So
24 it's a wide variety of oversight that we look at when we look
25 at, you know, how a government agency is handling the

K2jWsch6

Bradley - Direct

1 information.

2 Q. How do you familiarize yourself with the executive orders
3 that you administer?

4 A. Well, I helped write it, so that's one way. Other way is
5 that we practice it almost daily. I mean, we have -- I have
6 different groups in my office that go out. I have a national
7 security team that's constantly reviewing self-inspection
8 enforcement gains here. We're constantly meeting with senior
9 agency officials from the IC. We have a real hands-on way of
10 doing oversight.

11 Q. And do you receive any trainings with respect to the U.S.
12 classification system?

13 A. I do. I mean, I'm what they call an original
14 classification authority, an OCA, so I have to go through
15 yearly training, refresher training, really. And my staff also
16 receives yearly training.

17 Q. For approximately how many years of your career have you
18 been dealing with classified information?

19 A. Sometimes I think too long. About 26, going on 27.

20 MR. KAMARAJU: Your Honor, the government would offer
21 Mr. Bradley as an expert on the United States government
22 classified national security information system.

23 MS. SHROFF: Your Honor, we have no objection at all.

24 THE COURT: OK. He's recognized as an expert.

25 You've been recognized as an expert before, haven't

K2jWsch6

Bradley - Direct

1 you?

2 THE WITNESS: This is my first time testifying, but
3 yeah, I've been recognized as an expert before.

4 THE COURT: OK.

5 MR. KAMARAJU: Ms. Hurst, could you pull up for just
6 the witness and the parties Government Exhibit 1701, please.

7 Q. Sir, could you take a look at that?

8 A. Yes, sir.

9 Q. Do you recognize it?

10 A. I do.

11 Q. What is it?

12 A. It is a slide that my office, under my over-- oversight
13 prepared for this, this hearing, this trial.

14 Q. Does it represent a summary of your testimony?

15 A. It does.

16 Q. And will it aid in your testimony?

17 A. Yes, sir.

18 MR. KAMARAJU: Your Honor, the government would offer
19 Government Exhibit 1701 as a demonstrative.

20 MS. SHROFF: We have no objection, your Honor.

21 THE COURT: 1701 is in evidence.

22 (Government Exhibit 1701 received in evidence)

23 MR. KAMARAJU: Ms. Hurst, could we go to the first
24 slide, please.

25 Q. You're the director of the information security oversight

K2jWsch6

Bradley - Direct

1 office, correct?

2 A. Correct.

3 Q. Let's talk a little bit about what that office is. Could
4 you explain the first bullet point, please?

5 A. OK. We're authorized by the president to make sure that
6 the government's complying with Executive Order 13526, which
7 governs how the federal government classifies safeguards and
8 declassifies national security information.

9 Now, I want to add a --

10 Q. I just want to ask you to keep your voice up.

11 A. Yeah, sure.

12 I want to add one thing to this slide, which is that I
13 spent two years working for Senator Daniel Patrick Moynihan. I
14 was his legislative director. I worked for a little over two
15 years for Daniel Patrick Moynihan, who this courthouse is named
16 after. And we -- he chaired something called the U.S. secrecy
17 commission that basically found that the U.S. government
18 classifies too much, doesn't declassify enough. So one of the
19 things that 13526 tries to do is, again, strike this balance
20 that we are in a democracy. We try to declassify as much
21 information as we can to keep the people's trust in the
22 government.

23 Same side, we face extraordinarily grave threats, and so
24 it's critical that we have classified information to be able to
25 protect this republic, so it's a balancing act that we're

K2jWsch6

Bradley - Direct

1 constantly tasked with.

2 Q. And I think you talked about this, but do you see the
3 bullet that talks about serving as an impartial broker?

4 A. Yeah, that's it.

5 Q. What did you mean by that?

6 A. Means exactly just what I just said. We are the umpires in
7 the game. The president, when this office was stood up, it was
8 understood that we were going to be the neutral overseer of the
9 system. We understand the IC -- in fact, I was even part of it
10 once, but we are not -- we are not, we don't work for the
11 intelligence community. We don't take our orders from the
12 intelligence community.

13 My policy direction comes from two places. It comes from
14 Archivist of the United States and also from the National
15 Security Council, but not from the IC.

16 Q. You mentioned that you're not a member of the intelligence
17 community. What are some of the entities that are in the
18 intelligence community?

19 A. Well, you have Central Intelligence. There are 17. They
20 range from the FBI. We have CIA. We have DOD. We have DIA.
21 We have NRO, the National Reconnaissance Office. We have
22 national geospatial, and just a plethora of agencies. It's
23 expanded dramatically. It's expanded again after 9/11, since
24 we had the office of director of national intelligence, since
25 we had the Department of Homeland Security, things we didn't

K2jWsch6

Bradley - Direct

1 have before 9/11. So it's constantly evolving.

2 Q. You mentioned the executive order, correct?

3 A. Correct.

4 MR. KAMARAJU: Your Honor, we're breaking at 3:00
5 today?

6 THE COURT: Yes.

7 BY MR. KAMARAJU:

8 Q. Let's just start talking generally about the executive
9 order.

10 A. Sure.

11 MR. KAMARAJU: Could we go to the next slide, please.

12 Q. Would the executive order provide guidance on what types of
13 information can be classified?

14 A. Right.

15 Q. And this slide, does this slide summarize some of the
16 categories that can be classified?

17 A. It summarizes such in 1.4 of Executive Order 13526.

18 Q. Let's talk just about some of these first. Do you see
19 where it says "information pertaining to military plans,
20 weapons systems or operations"?

21 A. Correct.

22 Q. Could you explain what that means, please?

23 A. When this order was written -- back up just a little bit.

24 These executive orders, the way they started, back in the
25 early 1950s with Harry Truman, we had just come out of a war

K2jWsch6

Bradley - Direct

1 and we were getting ready to go into another one called the
2 Cold War. So debate raged about what to include as classified
3 information. So intentionally the government made these orders
4 very broad because the threats are constantly evolving.

5 What you have here is something that would still be
6 applicable in the 1950s but also be applicable in 2020. So
7 again, military plans are exactly that. They would be the U.S.
8 plans, for instance, if the Iranians were to roll into Iraq
9 today, I mean, obviously we have plans for that. Do we want
10 them out in the New York Times? No. Do we want our weapons
11 systems that we're going to use to counter the threats out in
12 the New York Times? No. Do we want our operational planning
13 out? The answer's no, because that would cost lives, cost
14 American lives.

15 Q. And I think you mentioned the need for flexibility there.
16 Why does there need to be flexibility in the --

17 A. Because the threats are constantly evolving. I mean, I've
18 been in this business a long time, and they're morphing all the
19 time. I can't tell you how much -- when I first started out,
20 we were in the Cold War and the Russians were the problem. In
21 some ways the Russians are still the problem. Now we have to
22 worry about many other -- the nation state actors and also the
23 individual actors in a way we never had to do before. So the
24 idea is to give us enough flexibility to be able to defend the
25 United States but have a system to be able to do it. I mean

K2jWsch6

1 it's not just the Wild West. It is a logical, planned system
2 here.

3 MR. KAMARAJU: Your Honor, I think the next couple of
4 categories might take a little bit longer.

5 THE COURT: All right. We'll break now, ladies and
6 gentlemen.

7 Remember the common instructions. Don't do any
8 research. Keep open minds. Don't talk to one another about
9 the case.

10 We'll see you tomorrow. We're going to start at 11:30
11 tomorrow. Safe home tonight.

12 (Continued on next page)

K2jWsch6

1 (Jury not present)

2 THE COURT: Please be seated.

3 You're excused, Mr. Bradley.

4 THE WITNESS: Yeah. Thank you, Judge.

5 THE COURT: See you tomorrow.

6 THE WITNESS: Indeed.

7 (Witness not present)

8 THE COURT: Where are we on witnesses now for the
9 government?

10 MR. LAROCHE: Your Honor, I believe we have about four
11 witnesses left, four to five witnesses. I think that we will,
12 we have a short day tomorrow, but I think that we expect to be
13 done Monday or Tuesday at some point.

14 THE COURT: Mr. Bradley was an added starter.

15 MR. LAROCHE: I'm sorry, your Honor?

16 THE COURT: He was an added starter. He wasn't on my
17 list.

18 MR. LAROCHE: Oh, I'm sorry, your Honor. And that's
19 our fault. We moved -- we had to adjust the schedule because
20 of some witness scheduling issues.

21 THE COURT: I see.

22 MR. LAROCHE: I apologize about that.

23 THE COURT: OK.

24 Ms. Shroff, do you want to bring up anything?

25 MS. SHROFF: No, your Honor. Thank you.

K2jWsch6

1 THE COURT: OK. Thank you very much. See you
2 tomorrow.

3 MR. LAROCHE: Thank you, your Honor.

4 MR. DENTON: Thank you, your Honor.

5 (Adjourned to February 20, 2020, at 11:30 a.m.)
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9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXAMINATION

Examination of:	Page
-----------------	------

KAREN	
-------	--

Direct By Mr. Denton1738
--------------------------------	-------

Cross By Ms. Shroff1765
-------------------------------	-------

Redirect By Mr. Denton1821
----------------------------------	-------

SEAN ROCHE	
------------	--

Direct By Mr. Denton1825
--------------------------------	-------

Cross By Ms. Shroff1852
-------------------------------	-------

MARK A. BRADLEY	
-----------------	--

Direct By Mr. Kamaraju1911
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GOVERNMENT EXHIBITS

Exhibit No.	Received
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